

## 2004 - Commerce and HR House Pending Rule (Yellow)

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#### *Legislative Session 2004*

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## **2004 - Commerce and HR House Pending Rule (Yellow)**

### **IDAPA 09 - IDAHO DEPARTMENT OF LABOR**

#### **09.01.30 - RULES OF THE BENEFITS BUREAU**

##### **DOCKET NO. 09-0130-0301**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the Legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

IDAPA 09.01.30.550.03 was amended in the proposed rule to add a new method for benefit claimants to file weekly or biweekly reports. This amendment provided that, in addition to the current filing methods, reports may be filed electronically. No additional amendments have been made to the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, pages 37 and 38.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Roger Holmes at 208/332-3570 ext. 3233.

DATED this 30th day of July, 2003.

Roger Holmes  
UI Benefits Bureau Chief  
Benefit Programs Bureau  
Idaho Department of Labor  
317 W. Main St., Boise, ID 83735  
208/332-3570 ext. 3233 / 208/334-6301 Fax

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### **IDAPA 09, TITLE 01, CHAPTER 30**

#### **RULES OF THE BENEFITS BUREAU**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 37 and 38.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 09 - IDAHO DEPARTMENT OF LABOR

#### 09.01.30 - RULES OF THE BENEFITS BUREAU

##### DOCKET NO. 09-0130-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rules are effective April 28, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: IDAPA 09.01.30.550.03 would be amended to add a new method for benefit claimants to file weekly or biweekly reports. The rule would provide that, in addition to the current filing methods, reports may be filed electronically.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: With new technology available, the Department wishes to adopt additional, more convenient methods for unemployment insurance benefit claimants to use when filing their weekly or biweekly reports with the Department. These additional methods of filing will confer a benefit to unemployment insurance benefit claimants.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the agency determined it was not feasible due to the simple nature of the proposed rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes at 208/332-3570 ext. 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 2003.

Roger Holmes  
UI Benefits Bureau Chief  
Benefit Programs Bureau  
Idaho Department of Labor  
317 W. Main St.  
Boise, ID 83735  
208/332-3570 ext. 3233  
208/334-6301 Fax

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0301

#### **550. REPORTING REQUIREMENTS.**

Each claimant shall report weekly or biweekly for benefits as directed. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

**01. In-Person Reports.** A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following working day. (3-19-99)

**02. Mailed Reports.** Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. (3-19-99)

**03. Telephone/Internet Reports.** Reports filed by telephone to the Idaho Tel A Claim system or via the internet must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. ~~(3-19-99)~~(4-28-03)T

**04. When Report Missing.** If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (3-19-99)

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### **IDAPA 09 - IDAHO DEPARTMENT OF LABOR**

#### **09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU**

**DOCKET NO. 09-0135-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 88 through 91.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark Whitworth at 208/332-3570 ext. 3266.

DATED this 29th day of October, 2003.

Mark Whitworth  
Employer Accounts Bureau Chief  
Idaho Department of Labor  
317 W. Main Street, Boise, ID 83735  
208/332-3570 ext. 3266  
Fax: 208/334-6301

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### **IDAPA 09, TITLE 01, CHAPTER 35**

#### **RULES OF THE EMPLOYER ACCOUNTS BUREAU**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 88 through 91.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 09 - IDAHO DEPARTMENT OF LABOR

#### 09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

##### DOCKET NO. 09-0135-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Elimination of Subsection 011.04 from this rule will remove the restriction against assessing penalty once a tax lien is filed, but while the tax is still delinquent. Penalty provisions are intended to encourage the prompt payment of delinquent taxes to prevent additional charges. Inability to assess penalties once a tax lien is filed negates this incentive and encourages delay in paying owed amounts.

Subsection 134.02 is being changed to eliminate the specific reference to a time period for notification of change for transfer of tax rate. The Department anticipates changing the statutory time frame found in Idaho Code 72-1351(4) for requests of rate transfer to allow more time for employers to make this request. Changing the rule to refer to the statute for the allowed time frame will permit the rule to conform with the statute as it currently appears and immediately upon change.

U.S. Department of Labor has noticed a trend called "SUTA dumping" in which employers with high UI tax rates due to high employee turnover, lower their rate by transferring their employees from one legal entity to another with a low tax rate. This results in an unfair lowered tax rate being given to employers who continue to have high employee turnover but maintain the lower tax rate by cycling through business entities as the rate rises. This cycling through entities with low tax rates while continuing to operate in a manner that causes deficit payments for these employers causes an excessive drain on the UI trust fund and higher rates for all covered employers. Subsection 221.01 is being changed to require a mandatory transfer of rate for employers when there is a continuity of ownership or management between the predecessor and successor.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being amended to clarify penalty provisions in an existing rule, in response to anticipated legislative changes, and in response to Federal recommendations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Whitworth at 208/332-3570 ext. 3266.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 30th day of July, 2003.

Mark Whitworth  
Employer Accounts Bureau Chief  
Idaho Department of Labor  
317 W. Main Street, Boise, ID 83735  
208/332-3570 ext. 3266 / Fax: 208/334-6301

## 2004 - Commerce and HR House Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0301

#### 011. GENERAL PROVISIONS.

The following Rules for Employer Contributions are adopted pursuant to Section 72-1333(2), Idaho Code. (3-19-99)

**01. Quarterly Reporting.** Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

**02. Contribution Due Date.** Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

**03. Penalties And Interest On Bankruptcy.** Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1356, Idaho Code. (3-19-99)

~~**04. Late Penalty.** Penalty shall be calculated on the unpaid balance for any amount not secured by a lien. Ref. Sec. 72-1354, Idaho Code. (3-19-99)~~

**054. Lien Interest.** Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Sec. 72-1360, Idaho Code. (3-19-99)

**065. Penalty And Interest During Controversy.** Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and 72-1360, Idaho Code. (3-19-99)

**076. Confidential Information.** Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sec. 9-340 and 72-1342, Idaho Code. (3-19-99)

**087. Filing Of An Employer Appeal.** (3-30-01)

**a.** An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Employer Accounts Bureau of the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a Job Service office or the Employer Accounts Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a Job Service office or the Employer Accounts Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Job Service office or to the Employer Accounts Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Sec. 72-1361, Idaho Code. (3-30-01)

**b.** An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

**c.** In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if



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(i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

**098. Determinations.** Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing of the determination in accordance with Section 72-1361, Idaho Code. (3-30-01)

**409. Determination Of Payment Date.** Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

**140. Release Of Lien Upon Payment In Full.** An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Sec. 45-1908, Idaho Code. (3-19-99)

**121. Contribution Reports.** Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on his behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **134. PROFESSIONAL EMPLOYER ORGANIZATIONS.**

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

**01. Methods Of Reporting.** To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

**a.** Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

**b.** Report the workers included in the professional employer arrangement under the account number of the professional employer without transferring the experience rate of the client to the professional employer; or (3-15-02)

**c.** Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**02. Joint Transfer Of Experience Rate.** In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within ~~ninety (90) days~~ the same timeframes as required of employers by Section 72-1351(4), Idaho Code, from the date of the agreement entered into between the

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professional employer organization and the client. Ref. Sec. 72-1351(4), Idaho Code.

~~(3-15-02)~~(\_\_\_\_)

**03. Partial Transfers Of Experience Rate Prohibited.** In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**04. Mandatory Transfer Of Experience Rate.** If the professional employer organization elects to report the workers assigned to the client under the experience rate of the professional employer, and the client employer has a deficit experience rate, the experience rate transfer shall be mandatory. Ref. Sec. 72-1351, and 72-1349B, Idaho Code. (3-15-02)

**05. Partial Reporting Of Workers.** If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**06. Combined Wages Or Services For Purposes Of Coverage.** If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 221. TRANSFER OF EXPERIENCE RATING.

Upon request, employers shall be informed of the requirements for transferring an experience rating record. A status determination shall be issued to interested parties when an experience rating record transfer request is made. Ref. Sec. 72-1351, Idaho Code. (3-15-02)

**01. Mandatory Transfer Of ~~Deficit~~ Rate.** An experience rating record transfer shall be mandatory if: ~~There is a continuity of ownership or management between the predecessor and successor and the predecessor covered employer had a deficit experience rating record as of the last computation date.~~ The parties in interest shall be notified of such transfer of ~~deficit~~ experience as determined from the facts applicable to the case. Such determination may be appealed as provided in Ref. Sec. 72-1351, 72-1361, Idaho Code. ~~(3-19-99)~~(\_\_\_\_)

**02. Continued Predecessor Employment For Liquidation.** When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Sec. 72-1351, Idaho Code. (3-19-99)

**03. Management Or Ownership Unchanged.** For the purposes of Sections 72-1351(4)(a) and (b), Idaho Code, management and/or ownership shall be considered substantially the same if at least fifty percent (50%) of the business enterprise of the successor is owned or controlled by individuals who, immediately preceding the change in the legal entity, owned or controlled fifty percent (50%) or more of the enterprise. Ref. Sec. 72-1351, Idaho Code. (3-15-02)

**04. Wage Paid By Predecessor.** The successor employer may use wages paid by the predecessor employer to arrive at the wage base for purposes of calculating taxable wages only when the experience rate of a predecessor employer has been transferred to a successor employer. Ref. Sec. 72-1349(1), 72-1351(4), and 72-1350(8), Idaho Code. (3-15-02)

## **2004 - Commerce and HR House Pending Rule (Yellow)**

### **IDAPA 15 - OFFICE OF THE GOVERNOR DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

#### **15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**DOCKET NO. 15-0401-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules have been amended in response to public comment and to make clarification, typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

The most significant changes to the proposed rule are:

- The definitions of "appointment, temporary," "due process" and "hiring list" have been modified.

- The definition of "organizational unit" has been removed and replaced with a definition of "layoff unit".

- A definition of "veteran" has been added and rules 020, 093 and 102 regarding veteran's preference have been further clarified.

- Stronger emphasis on Hay system in compensation sections 070 and 075.01.b.

- Section 071 is not being republished but has reverted back to the original codified text.

- Limited service is further clarified in rules 101 and 124.04.

- Proposed rule 103 has changed and reemployment eligibility register status will remain at twelve months.

- Rules 001, 119, 125.08, 203, 243, 244, 250.02.a, and 273.03 have been further clarified.

- Reduction in force rules 140-147 have changed. For example, the retention point calculation has been streamlined to more closely resemble the current process and the rules on performance evaluations have been further clarified.

- Clarifications have been added to the promotional probation rules 153.

- Rule 241.02.a. has been deleted.

Only the sections that have changes are printed in this bulletin. Section 071 is not being republished but has reverted back to the original codified text. The original text of the proposed rules was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 177 through 222.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Daniel Steckel at 429-5507.

DATED this 20th day of November, 2003.

Ann Heilman  
Administrator  
Division of Human Resources  
700 West State Street  
P.O. Box 83720, Boise, ID 83720-0066  
(208)429-5500 / (208)334-3182 (fax)

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### IDAPA 15, TITLE 04, CHAPTER 01

#### RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 177 through 222.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

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#### THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 15-0401-0301

##### **SECTION 001 (Entire Section)**

##### **001. TITLE, ~~AND~~ SCOPE, AND COMPLIANCE.**

**01. Title.** These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission". (3-30-01)(\_\_\_\_)

**02. Scope.** These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

**03. Compliance.** In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities *shall* ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. (\_\_\_\_)

##### **SECTION 010 (Partial Section)**

##### **010. DEFINITIONS.**

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

**068. Appointment, Original Or Initial.** For purpose of assigning veteran's preference points, ~~The first appointment of time~~ a person is hired by a state agency to any classified position in state service full-time position after attaining eligible veteran's status. (Ref. Section 65-506(3), Idaho Code and Rule 102.04) (~~4-5-85~~)(\_\_\_\_)

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~~144.~~ **Appointment, Temporary.** The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (7-1-87)( )

~~1922.~~ **Demotion.** The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification with in a lower entrance salary pay grade. Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the promotional probationary period. (Ref. Rule 150.04) (7-1-87)( )

**25. Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code). ( )

**33. Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. Candidates for reinstatement and/or transfer may be considered and are provided in addition to the top ten. ( )

### IN THE PROPOSED RULEMAKING, SUBSECTION 010.41 WAS NUMBERED 010.49

**41. Layoff Unit (Organizational Unit).** A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). ( )

~~3642.~~ **Leave Of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

~~3743.~~ **Leave Of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

**44. Light Or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. ( )

~~3845.~~ **Merit Increase.** The advancement of an employee's compensation in accordance with Section 67-5309C(b), Idaho Code. (7-1-87)

~~3946.~~ **Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (7-1-93)( )

**407. New Classification.** A classification that is not essentially described by any existing job classification. (7-1-94)( )

~~418.~~ **Occasional Or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

~~429.~~ **On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can

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use the time effectively for personal purposes.

(3-30-01)

71. **Veteran.** Rule 020 defines veteran for the purpose of selection, hiring, and retention preference.

( )

~~6372.~~ **Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073)  
(12-10-90)

### **SECTION 020 (Entire Section)**

#### **020. VETERANS PREFERENCE.**

Preference must be given to qualified veterans who are residents of Idaho in all employment actions including hiring, transfer, promotion, and retention except for confidential secretarial positions. (3-30-01)

**01. Veteran Defined** (For Preference Purposes). Any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits and who has been discharged from service under honorable conditions. (Ref. Sections 65-509 and 65-510, Idaho Code) (3-30-01)

**02. War Veteran (War Era) And Disabled Veteran Defined (For Preference Points On Competitive Exam).** ~~War Veterans~~ War veterans and disabled veterans who are residents of the state of Idaho, and their widows or spouses, when qualified under state law shall have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Rule 102. (Ref. Rule 093.03, and Sections 65-502, 506, 507, and 67-5309(f), Idaho Code) ~~(3-30-01)~~( )

**03. Promotion/Transfer Consideration.** Qualified veterans shall be given additional consideration in promotion and transfer decisions. When candidates are considered to be equal based on valid job related factors, veterans shall be preferred. (Ref. Sections 65-502, 65-504, 65-509, and 67-5309, Idaho Code) ~~(3-30-01)~~( )

**04. Retention.** War veterans (War Era) (as defined in Chapter 5, Title 65, Idaho Code) shall receive the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule 140 and Section 65-503, Idaho Code) ~~(3-30-01)~~( )

### **SECTION 025 (Entire Section)**

#### **0265. NEPOTISM.**

No employee shall work under the immediate supervision or management chain-of-command of a ~~supervisor who is~~ a spouse, child, parent, brother, sister or the same relation by marriage. Similar relationships such as significant others, may also create a conflict of interest and should be addressed by agency conflict of interest policy. (Ref. Section 18-1359(e), Idaho Code) ~~(8-1-81)~~( )

### **SECTION 050 (Entire Section)**

#### **050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.**

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

**01. No Fee Basis.** No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

**02. Limited Use Only.** Individuals employed through contracts with temporary services or

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professional staffing agencies shall be utilized only for short-term situations. (3-30-01)

**03. Conflict Of Interest/Nepotism.** Agency policies regarding conflict of interest/nepotism should address the award of work to consultants and contractors. See Rule 024 and 025. Also Ref. Section 18-1359, Idaho Code. ( )

**04. Not To Be Treated As Employees.** Independent contractors, their staff or consultants shall not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. ( )

### **SECTION 066 (Entire Section)**

#### **066. ABOLISHMENT OF POSITIONS.**

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. (7-1-87)

### **SECTION 070 (Entire Section)**

#### **070. COMPENSATION OF EMPLOYEES.**

**01. The Hay System.** The Division of Human Resources will use the Hay method of point factoring to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) ( )

**012. Conduct Of Salary Surveys.** The Division of Human Resources shall conduct or approve salary surveys, to determine salary ranges that represent ~~competitive~~ labor market average rates for ~~all~~ Hay point factored positions in ~~the~~ classified service. (7-1-94)( )

**023. Relevant Labor Markets ~~For Classifications Up To Two Hundred Seventy Points.~~** For classifications up to two hundred seventy (270) points, the comparator market shall consist of the Idaho in-state market, representing private and public employers in the state. Labor markets used for wage comparison shall be based on the normal recruiting market for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. (7-1-94)( )

**a.** When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. ( )

**b.** For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. ( )

**c.** Recruitment and retention issues will be used to determine the need for additional special market surveys. ( )

**03. Relevant Labor Markets ~~For Classifications From Two Hundred Seventy One To Five Hundred Fifty Points.~~** For classifications from two hundred seventy-one (271) to five hundred fifty (550) points, the comparator market shall be the Idaho in-state market, representing private and public employers, and a group of nine (9) Western State governments, consisting of Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. (7-1-94)

**04. Relevant Labor Markets ~~For Classifications Above Five Hundred Fifty Points.~~** For classifications above five hundred fifty (550) points, the comparator market is the nine (9) Western State governments identified in Rule 070.03, and other relevant markets. (3-30-01)

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**054. Salary Schedule.** The administrator shall adopt the salary ranges for the pay grades in Section 67-5309C, Idaho Code, ~~which normally represents eighty five percent (85%) to one hundred twenty five percent (125%) of the payline policy formulas in Section 67-5309B, Idaho Code;~~ in a public meeting after notice, and a current salary schedule shall be ~~provided to~~ made available to the public and all appointing authorities. ~~(3-30-01)( )~~

**065. Compensation Plan.** Significant changes to components of the compensation plan shall be presented in a public meeting after notice. (3-30-01)

#### **SECTION 071 (Entire Section Reverted Back To Original Text)**

#### **071. COMPENSATION PLAN REVIEWS.**

**01. Review OF Compensation Schedule.** The Division of Human Resources in cooperation with the various appointing authorities shall conduct reviews of the compensation plan. (3-30-01)

**02. Affirmation Of Factoring.** In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct. (7-1-93)

#### **SUBSECTION 072.06.a. (Partial Section)**

#### **072. OPERATION OF COMPENSATION PLAN.**

**06. Salary Upon Reinstatement.** Unless related to reemployment after a lay off, the salary of a reinstated employee (Rule 1254) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. ~~(7-10-88)( )~~

~~**a.** Except as otherwise provided in the following rule, the salary of a reinstated employee (Rule 125) is negotiable between the employee and appointing authority in the current pay grade for the class in which the employee has reinstatement privileges.~~ ~~(3-30-01)~~

#### **SUBSECTIONS 073.03.c., 073.03.d., and 073.06.g. (Partial Section)**

#### **073. CALCULATION OF PAY.**

**03. Holiday Pay Calculation.** (7-1-87)

**c.** A part-time employee who has a regular work schedule shall be paid for a holiday ~~in the same proportion to ratio as~~ eight (8) hours ~~that the hours the employee normally works in is to a forty (40) hour work week bear to forty (40),~~ which for calculation purposes converts to two tenths (.20) x hours normally worked; ~~or 2) to the extent the employee would have worked had the holiday been a regular workday. The use of method 1) or 2) is discretionary with the appointing authority.~~ ~~(7-1-87)( )~~

**d.** If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, ~~an appointing authority may substitute the following method for 1) above:~~ the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs ~~bear relate~~ to forty (40). ~~(4-5-85)( )~~

**06. Department Salary Administration Policies.** Each department shall adopt and file with the administrator current salary administration policies for the following actions to insure fairness and equity for all employees within that department: (3-30-01)



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- g. On-call time (Rule 010.402). (4-5-85)( )

### ***SUBSECTION 075.01 (Partial Section)***

#### **075. SHIFT DIFFERENTIAL.**

01. Eligibility. (12-10-90)

a. Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6 p.m. and 7 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked. (12-10-90)

b. Shift differential compensation shall be paid for all hours worked by an relief shift employee whose primary responsibility is to work in place of an absent employee and, whose assigned schedule varies from nights, days, and/or swing. (12-10-90)( )

### ***SECTION 085 (Entire Section)***

#### **085. CONTENT OF ANNOUNCEMENTS.**

Each announcement ~~of an examination~~ shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of ~~the~~ examination, ~~relative weights of the various portions of the examination,~~ qualifying score, closing date, equal opportunity and veterans preference notice, and other pertinent information. (4-5-85)( )

### ***SUBSECTION 086.05 (Partial Section)***

#### **086. APPLICATIONS.**

05. **Promotion Of Entrance Probationary Employee.** Any classified employee on entrance probation may file an application for a promotional opportunity ~~but may not be~~ and be placed on a register ~~but may not be appointed~~ until permanent status has been attained. (Ref. Rules 16052.01. and 17069.03.) (7-1-87)( )

### ***SUBSECTION 093.03 (Partial Section)***

#### **093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.**

03. Veterans' Preference. (4-5-85)( )

a. War ~~V~~veterans' and disabled veterans' points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Veterans' preference points are only applicable when the applicant is a resident of Idaho. (Ref. Sections 65-5026 and 67-5309(f), Idaho Code) (4-5-85)( )

b. War ~~V~~veterans' and disabled veterans' preference points shall not be added to the raw score in order to achieve a passing score. (4-5-85)( )

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#### **SUBSECTION 101.01 (Partial Section)**

##### **101. TYPES OF ELIGIBILITY REGISTERS.**

There are four (4) kinds of eligibility registers:

(4-5-85)

**01. ~~Layoff~~ Reemployment Preference Registers.** ~~Departmental layoff~~ Registers with reemployment preference shall for a given classification contain the names of classified employees of permanent ~~or probationary~~ status who have been laid off or ~~demoted because of shortage of work or funds, reorganization, or abolishment of a position. Ranking on such register is to be made in accordance with Rule 146, governing employee preference notified of a pending layoff~~ except limited service appointments. (See Rule 140 and 146). (4-5-85)(\_\_\_\_)

#### **SUBSECTIONS 102.03 and 102.04 (Partial Section)**

##### **102. PLACEMENT ON REGISTER.**

**03. Disabled Veterans' Preference.** Eligible disabled veterans or surviving spouses entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other non-preference candidates in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03; and Section 65-605506, Idaho Code) (3-30-01)(\_\_\_\_)

**04. Veterans' Preference Points For Initial Appointment Only.** The additional points added by reason of veterans' preference shall be used ~~for initial appointment~~ the first time a qualified veteran is hired by a state agency and not for the purpose of promotions ~~in classified service~~. (Ref. Section 65-506, Idaho Code) (3-30-01)(\_\_\_\_)

#### **SECTION 103 (Entire Section)**

##### **103. DURATION OF ELIGIBILITY REGISTERS.**

**01. ~~Eligible Candidates~~ Reemployment Preference Registers.** Eligible candidates ~~on layoff registers~~ will remain thereon for twelve (12) months from effective date of layoff. (Ref. Rules 101.01 and 144) (3-30-01)(\_\_\_\_)

**02. ~~Duration~~ Other Registers.** The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-30-01)(\_\_\_\_)

#### **SECTION 109 (Entire Section)**

##### **1402. CERTIFICATION AND SELECTION.**

Whenever a vacancy in a classified position is to be filled by ~~the~~ a competitive ~~examination~~ recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' staff. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division of Human Resources. (4-5-85)(\_\_\_\_)

#### **SUBSECTION 111.02 (Partial Section)**

##### **1121. ADEQUATE REGISTERS.**

A register with at least five (5) eligible candidates shall be adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may: (3-30-01)

**02. Provisional Appointment.** Make a provisional appointment pursuant to Rule 12019.05.

(3-30-01)(\_\_\_\_)

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### **SUBSECTION 121.02 (Partial Section)**

#### **1221. SEASONAL APPOINTMENT.**

**02. Employee Rights.** Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 147, relating to reduction in force. ~~(12-10-90)( )~~

### **SUBSECTION 124.04 (Partial Section)**

#### **1254. REINSTATEMENTS.**

**04. Probationary Period.** An appointing authority may negotiate for a probationary period as a condition of reinstatement except ~~as provided in Rule 125.05 or when hiring off a layoff register~~ where prohibited. (Ref. Rules 124.05 and 145.01). ~~(3-30-01)( )~~

### **SUBSECTIONS 125.04 and 125.08 (Partial Section)**

#### **1265. TRANSFERS.**

**04. Limitation.** Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147. (7-1-87)

**08. Involuntary Transfer.** Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. (Ref. Rules 010.39 and 200.01.a.). ( )

### **SECTION 140 (Entire Section)**

#### **140. REDUCTION IN FORCE.**

**01. Conditions For Layoff.** An appointing authority may lay off an employee whenever ~~it is~~ necessary ~~because of~~ due to: ( )

**a.** ~~Shortage of funds or work;~~ ( )

**b.** ~~Reorganization;~~ ( )

**c.** The end of a limited service appointment; ( )

**d.** An employee's failure to complete interagency promotional probation when demotion options are not available; or ( )

**e.** ~~The abolishment of one (1) or more positions (ref. Rule 066). A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02.~~ ( )

**02. Layoff Decisions Must Not Be Based On.** Layoff decisions must not be based on race, color,

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national origin, gender, age, religion, disability, or political affiliation. Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not ~~abrogate~~ do away with an employee's right of ~~grievance~~ to problem solving, or appeal if the layoff is in fact a dismissal. (4-5-85)( )

**03. Assessment For Adverse Impact.** In planning and conducting a reduction in force, the appointing authority shall consider the effect layoff units and positions to be abolished may have on the composition of the agency work force. If layoff units and/or exclusions are established, adverse impact of protected classes shall be assessed. The appointing authority shall administer the reduction in force consistent with state and federal laws, and rules and guidelines governing adverse impact. ( )

**04. Layoff By Position.** Reduction in force shall be by classification of position ~~regardless of class of incumbent.~~ (4-5-85)( )

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification, (Rule 11~~3~~2) for bona fide occupational qualifications, or appointed ~~under specific options or to a classification with~~ minimum qualification specialties ~~in a class.~~ Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (7-1-93)( )

b. Reduction in force for employees in limited service appointments shall be limited to the program or function for which the appointments were made. An appointing authority may petition the administrator to exclude an individual or individuals from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale and exclusions must be approved in advance by the administrator. (4-5-85)( )

c. Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122). Limited-service appointments are defined by the project, program, or function for which the appointments were made. When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and shall not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. (12-10-90)( )

**025. Layoff Unit.** Reduction in force shall be department-wide or by organizational unit ~~determined by the appointing authority provided the organizational unit designation designated~~ for layoff purposes, ~~is made~~ Layoff units (subdivisions of an agency for layoff purposes) are designated by the appointing authority and must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. (4-5-85)( )

**06. Reduction Of Hours Worked.** An involuntary reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the department or approved layoff unit for a limited period of time, i.e. furlough. ( )

**07. Downward Reclass.** A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one pay grade lower shall not constitute a layoff. (Ref Rule 067). More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary (Ref. Rule 190). ( )

### SECTIONS 141 through 149 (Entire Sections)

#### ~~03~~141. CALCULATION OF RETENTION POINTS.

There shall be ~~competition among~~ an evaluation of all employees in the classification in the department or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and classified credited state service. Qualified war veterans are given preference through additional retention points. (Ref. Rule ~~24~~0141.05). The appointing authority will

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determine a process for the impartial assessment of evaluations to assign points as follows:

<u>Overall Performance Level</u> <u>Documented As:</u>	<u>Retention Points Earned Per Hour</u> <u>of Credited State Service</u>
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

(7-1-87)( )

**01. No Performance Evaluation On File For A Twelve-Month Period.** All credited state service for which there is no performance evaluation shall receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation.  
(4-5-85)( )

**a. Grace period.** Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation.  
( )

**b. Changes in prior periods not allowed.** Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution.  
( )

**02. Calculation Of Retention Points Since Last Evaluation.** The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points shall be calculated in conformance with Rule 141.03.  
( )

**03. Qualified War Veterans (War Era) Preference.** War veterans (War Era) as defined in Chapter 5, Title 65, Idaho Code, shall receive a bonus of three hundred twelve (312) preference by the addition of retention points which is equivalent to three (3) years of satisfactory service.  
(4-5-85)( )

**04. Calculation Date Cutoff.** No points shall be calculated for the last three (3) months sixty (60) days prior to a reduction in force the effective date of the layoff.  
(4-5-85)( )

**05. Audit Of Retention Points.** Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties.  
(7-1-87)

### **142. CREDITED STATE SERVICE.**

Eligible credited state service for purposes of Rule 140 is defined as follows:

(4-5-85)

**01. Service Prior To State Personnel System.** All credited state service prior to the establishment of classified service, Chapter 53, Title 67, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service)  
(4-5-85)

**02. Classified Service.** All classified credited state service since the establishment of classified

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service.

(4-5-85)

**03. Nonclassified Service.** All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040. (7-1-87)

~~**04. Leave Of Absence From Classified Service.** All credited state service, in a leave of absence from classified service, that a classified employee serves in a nonclassified position. Limitations are contained in Rules 250.02.a. and 125.01.a. (7-1-87)~~

#### **1423. PROCEDURE REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.**

**01. Identification Of Classifications.** The appointing authority shall identify the classification(es) of positions to be affected by layoff and the organizational unit if applicable under Rule 140.02 reduced or eliminated. (4-5-85)( )

**02. Calculation Of Retention Points.** Retention points shall be calculated for all employees assigned to the classification of position including those serving in underfill positions (Ref. Rule 010.60 or acting appointments (Ref. Rule 130). Employees on approved leave of absence without pay shall not be included (Ref. Rule 142.04). Retention points need not be calculated where layoff involves a single-incumbent class. (7-1-87)( )

**03. Order Of Reduction In Force.** The order of reduction in force shall be by type of appointment held by the employee in the affected classification(es) as follows: first to be laid off are provisional appointees, next the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees shall be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs shall be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention shall be determined in the following sequence: (Ref. Rule 150.02.c.) (3-30-01)( )

**a.** The employee with the highest overall average performance credit (total retention points divided by total credited state service) for the past thirty-six (36) months. (4-5-85)( )

**b.** Random selection. (4-5-85)

~~**04. Employee Returning From Leave Of Absence.** An employee returning from a leave of absence without pay to a class for which a layoff register exists will be laid off in accordance with these rules if there are employees on the layoff register for the class with more retention points (Ref. Rule 142.02). (7-1-87)~~

~~**054. Notification Of To Affected Employees.** Each employee affected shall be notified in writing of layoff and reasons therefor the rationale for the decision at least fifteen (15) calendar days prior to the effective date of the layoff. Notification shall include a copy of the departmental layoff procedure and a copy of the computation of retention points when required (Ref. Rule 142.02). (4-5-85)( )~~

~~**065. Notification To Administrator.** The appointing authority shall give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and shall provide a list of persons affected by the layoff with their retention point calculations and shall indicate which employees will be laid off. (4-5-85)~~

#### **144. PLACEMENT ON LAYOFF REGISTER WITH REEMPLOYMENT PREFERENCE.**

~~An permanent employee who elects a voluntary demotion in lieu of layoff or an employee laid off from state service their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on a layoff their classification's register (Rule 101.01) in accordance with Rule 146 with reemployment preference in unranked order. Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers of reemployment without good cause, whichever comes first. (Rule 104.051.n.) An employee or former employee may request their name be removed at any time. (3-30-01)( )~~

#### **145. USE OF LAYOFF REGISTERS WITH REEMPLOYMENT PREFERENCE.**

**01. Offer Of Priority For Reemployment By Agency That Conducted The Layoff.** ( )

## 2004 - Commerce and HR House Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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**Docket No. 15-0401-0301**  
**Pending Rule**

**a.** ~~An~~ The employee on a layoff register who has been laid off, or officially notified of a pending layoff date (Ref. Rule 143.05) shall be offered reemployment to a position in the classification from which laid off ~~or layoff is pending~~, before any ~~other~~ person outside that agency may be promoted to, transferred to, reinstated, or appointed, ~~including acting appointment~~, to such that classification by the an appointing authority ~~enforcing the layoff~~ of that department or agency. Appointing authorities ~~in other departments are only required to offer an interview. (Ref. Rule 101.01)~~ may reassign or transfer individuals who are in the same classification within their department but may not demote, promote, reclassify, or make acting appointments to that classification. If that department determines a need to fill that classification, the employee scheduled for lay off or who was laid off has first priority for that position. (Ref. Rule 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator. (3-30-01)( )

**b.** When attempting to fill vacancies for a classification where a lay off occurred, the department or agency shall provide an opportunity to interview and shall make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 150.02 and those that took a voluntary demotion in lieu of layoff. ( )

**c.** Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Rule 072.04. ( )

**02.** ~~**Optional Return To Layoff Register.** When an employee is appointed from a layoff register, but finds the position unsatisfactory, they may resign, and request recertification to the layoff register for the remainder of their twelve (12) month eligibility period.~~ **Consideration For Hire By Other Agencies.** For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-30-01)( )

**03.** **Employment By Other Agency.** Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ( )

**04.** **Return To Register.** If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he or she may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve (12) month period if otherwise eligible. ( )

### **1476. INTERVIEWS FOR PROSPECTIVE LAYOFFS.**

~~Any~~ Employees who has been notified or identified as likely to be affected by a layoff ~~shall~~ may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 146.01.a.) Departments attempting to fill such vacancies All agencies shall offer an interview to these individuals when attempting to fill such vacancies through statewide promotion or open competitive recruitments. (Ref. Rule 145.02) (3-30-01)( )

### **1487. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.**

Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted if it causes the layoff of an employee with greater retention points. ( )

#### **01. Eligibility.** ( )

**a.** Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. ( )

## 2004 - Commerce and HR House Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

**Docket No. 15-0401-0301**  
**Pending Rule**

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**b.** *Exclusion.* Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. ( )

**02.** *Acceptance.* To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. ( )

148. -- 149. (RESERVED).

### **SECTIONS 152 and 153 (Entire Sections)**

#### **152. ~~UNSATISFACTORY SERVICE~~ SEPARATION DURING PROBATION.**

**01. Notification.** ~~Should~~ If a probationary employee ~~fail to~~ does not serve satisfactorily, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(j), Idaho Code and Rule 210.04) ~~(7-1-87)~~( )

**02. During Entrance And Voluntary Probation.** ~~(3-30-01)~~

~~a.~~ An employee who ~~fails to~~ does not serve satisfactorily during the entrance or voluntary probation shall first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. ~~(3-30-01)~~( )

~~**03. During Promotional Probation.** If an employee on promotional probation fails to serve satisfactorily in the position to which he or she has been promoted, the employee shall be returned to a position in the class in which he or she holds permanent status or to a classification allocated to the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. As with all employees, a violation of Rule 190 may result in disciplinary action up to and including dismissal.~~ ~~(3-30-01)~~

#### **153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.**

**01. Disciplinary Action.** Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. ( )

**02. Intra-Agency.** If an employee, on promotional probation, does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. ( )

**03. Inter-Agency.** ( )

**a.** The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. ( )

**b.** If no position is available for the voluntary demotion option, the employee may be laid off and may: ( )

**i.** Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or ( )

**ii.** Request their name be placed on a register for the classification in the agency where they last held



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permanent status. ( )

c. When reinstatement occurs in the classification they promoted from, in the new agency or the prior agency, the employee's name is removed from reemployment required preference status. ( )

#### SECTION 181 (Entire Section)

##### 1821. NONDISCIPLINARY DEMOTION OPTIONAL.

An appointing authority may ~~make allow~~ a ~~nondisciplinary~~ voluntary demotion when: (4-5-85)

~~01. Voluntary.~~ Requested or accepted by an employee and approved by the appointing authority. (4-5-85)( )

~~02. Displaced In Layoff. An employee is displaced by another employee entitled to the position pursuant to this Rule Section.~~ (7-1-87)

1853. -- 189. (RESERVED).

#### SECTION 203 (Partial Section)

##### 203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.

When the Division of Human Resources receives a complaint from a federal agency alleging violation of employment laws, the administrator shall take prompt action to investigate. If the complaint is department specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. ( )

#### SUBSECTIONS 210.03, 210.06, and 210.07 (Partial Section)

##### 210. PERFORMANCE EVALUATIONS.

**03. Purpose.** The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established ~~work standards~~ expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All ~~ratings~~ performance evaluations shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the ~~rating~~ evaluation contents. (4-5-85)( )

**06. Retention Of Evaluation.** A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished to the employee. ~~A copy~~ The performance rating shall be provided transmitted to the administrator, ~~with or without~~ Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents shall be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (7-1-94)( )

**07. Supervisors' Requirements.** Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. ( )

#### SUBSECTION 240.04 (Partial Section)

##### 240. SICK LEAVE.

## 2004 - Commerce and HR House Pending Rule (Yellow)

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### DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION Human Resources and Personnel Commission Rules

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**04. Medical, Dental, Or Optical Appointments Leave (MDA).** Employees are allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or optical examination or treatment. Occasional appointments are those which are traditionally considered to be preventative, wellness related, or diagnostic. Ongoing treatment for physical or mental illness is not covered by MDA. Use of this benefit may be limited by the appointing authority on a case by case basis where frequency of use is impeding organizational effectiveness or misuse is suspected. If more than two (2) hours are needed for appointments additional time may be charged to sick leave. (Ref. Rule 250.13) ~~(3-30-01)~~(\_\_\_\_)

#### SECTION 241 (Entire Section)

##### 241. WORKERS COMPENSATION AND DISABILITY.

**01. Use Of Leave In A Workers Compensation Claim.** In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

**02. Layoff After Six Months' Disability.** If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant. (Ref. Rule 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (3-30-01)

~~**a.** The disabled employee's retention points need not be calculated unless there are other employees on the departmental layoff register in the same class. The employee shall be entitled to reemployment preference pursuant to Rules 145 and 146 and reinstatement privileges provided under Rule 125 when released by his or her physician to return to work. (12-10-90)~~

**bg.** The ~~disabled~~ employee's name shall be certified to a ~~layoff register~~ reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (\_\_\_\_)

**b.** Conditional releases will be considered in accordance with the Americans with Disabilities Act. ~~(3-30-01)~~(\_\_\_\_)

#### SUBSECTION 243.01 (Partial Section)

##### 243. MATERNITY AND PATERNITY LEAVE.

**01. Use Of Sick Leave.** ~~Disabilities caused or contributed to by p~~Pregnancy, child birth or related medical conditions generally are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. ~~(3-30-01)~~(\_\_\_\_)

#### SECTION 244 (Entire Section)

##### 244. SEPARATION UPON FAILURE TO RETURN TO WORK.

Except for those employees on authorized leave or placed on a ~~layoff~~ register ~~as~~ with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having resigned voluntarily separated.

## 2004 - Commerce and HR House Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 1254. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-30-01)( )

#### **SUBSECTIONS 250.02.a. and 250.02.b. (Partial Section)**

#### **250. SPECIAL LEAVES.**

##### **02. Leave Of Absence To Assume A Nonclassified Position. (7-1-93)**

**a.** Approval. An appointing authority may approve a leave of absence without pay may be granted from classified service to a classified employee to assume a nonclassified position-in state service. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service or ninety (90) days past the service of the appointing authority, whichever comes first. (Ref. Rule 1254.01.a.) (7-1-87)( )

**b.** Credited State Service. An employee ~~returning from a on~~ leave of absence ~~granted~~ to assume a nonclassified position ~~shall be allowed classified continues to accrue~~ credited state service ~~for the leave in the class from which he or she was granted the leave of absence. Credit shall not exceed time limits established above.~~ (4-5-85)( )

#### **SECTION 273 (Entire Section)**

##### **273. MINIMUM HUMAN RESOURCE POLICIES.**

In order to ensure consistent minimum standards for employee rights and responsibilities under federal law, Idaho Code, and executive orders, each agency is required to have policies on the following, and take steps needed to inform employees of their rights and responsibilities under those same policies. If an appointing authority does not provide employees with the agency specific policy, a model policy issued by Division of Human Resources will apply. ( )

- |            |  |     |
|------------|--|-----|
| <b>01.</b> | <b><u>Problem Solving.</u></b> (Ref. Rule 200)   | ( ) |
| <b>02.</b> | <b><u>Due Process.</u></b> (Ref. Rule 200.01.a.)   | ( ) |
| <b>03.</b> | <b><u>Compensation, Including Overtime and Compensatory Time.</u></b> (Ref. Rule 073.06) | ( ) |
| <b>04.</b> | <b><u>Reasonable Accommodations/ADA.</u></b> (Ref. Rule 021)                             | ( ) |
| <b>05.</b> | <b><u>Sexual Harassment And Other Illegal Discrimination.</u></b> (Ref. Rule 021)        | ( ) |
| <b>06.</b> | <b><u>Conflict Of Interest - Nepotism.</u></b> (Ref. Rule 024 and 025)                   | ( ) |
| <b>07.</b> | <b><u>Drugfree Workplace.</u></b> (Ref. Rule 190.01.f.)                                  | ( ) |

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 15 - OFFICE OF THE GOVERNOR DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

#### 15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

#### DOCKET NO. 15-0401-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 67-5309, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

**Friday, October 3, 2003,** 10 am-Noon -- 1:30-3:30, Idaho State Police, 700 S. Stratford, Meridian, ID  
**Monday, October 6, 2003,** 10 am-Noon, Department of Health and Welfare, 1118 F Street,  
3rd Floor Conference Room, Lewiston, ID  
**Monday, October 6, 2003,** 2-4 pm, Idaho State Veterans Home, 821 21st Ave, Lewiston, ID  
**Tuesday, October 7, 2003,** 10 am-Noon, CDA Lands, 1118 F St., 3rd Floor Conference Room, Lewiston, ID  
**Tuesday, October 7, 2003,** 4-6 pm, CDA DEQ Large Conference Room, 2110 Ironwood Parkway,  
Coeur d'Alene, ID  
**Tuesday, October 7, 2003,** 2:30-4:30 pm, BSU, Jordan A Room (SUB), 1910 University Drive, Boise, ID  
**Tuesday, October 7, 2003,** 10-11:30 am -- 1-2:30 pm, Department of Health and Welfare,  
Conference Rooms A and C, 601 Pole Line Rd., Twin Falls, ID  
**Wednesday, October 8, 2003,** 10 am-Noon -- 1:30-3:30 pm, Idaho State Police, 700 S. Stratford, Meridian, ID  
**Wednesday, October 15, 2003,** 10 am-Noon Conference Room C and D -- 1:30-3:30 pm Conference Room D,  
Department of Environmental Quality, 1410 North Hilton, Boise, ID  
**Wednesday, October 15, 2003,** 10 am-Noon, DHR, Idaho Room, 700 W State St., Boise, ID  
**Monday, October 20, 2003,** 8:30-10:00 am, ISU, North Fork Room (SUB), 921 S. 8th, Pocatello, ID  
**Monday, October 20, 2003,** 2:30-4:30 pm, Idaho State Veteran's Home, 1957 Alvin Ricken Drive, Pocatello, ID  
**Tuesday, October 21, 2003,** 10 am-Noon, DEQ, 900 North Skyline Drive, Idaho Falls, ID  
**Tuesday, October 21, 2003,** 2-4 pm, DJC (Chapel), 2220 E. 600 N., St. Anthony, ID  
**Wednesday, October 22, 2003,** 5:30-7:30 pm, DEQ, Ste. 300 Snake River Rm, 444 Hospital Way, Pocatello,  
ID

Additional hearings around the state will be announced.

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Continuing reform of the personnel system rules to make them more effective, efficient and understandable. More significant changes include:

Adding definitions for administrator, appointing authority, seasonal appointment, due process, hiring list, light or limited duty, organizational unit, in-grade promotion, and recruitment. Clarifying existing definitions.

Updating compensation provisions. Broadening labor market comparators to better reflect the relative labor market.

Defining circumstances where an employee can be paid outside their salary range.

Clarifying payment of holiday benefit and shift differential.

Updating bonus provisions to conform with code.

Significant changes to the layoff determination process and reemployment preference rights.

Modification to length of time an applicant can be removed from eligibility registers.

Clarification of rights of limited service employees.

Rule allowing conversion to temporary appointments to classified service under certain circumstances.

Significant changes to employee status upon unsatisfactory performance during promotional probation.

Clarification of veterans' preference procedures.

Rule allowing for expedited dismissal of non-judicial appeals.

Allowing costs and attorney fees to be awarded to the prevailing party in an appeal.

Clarifying who may represent employees before the IPC.

## 2004 - Commerce and HR House Pending Rule (Yellow)

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**DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**  
**Human Resources and Personnel Commission Rules****Docket No. 15-0401-0301**  
**Proposed Rulemaking**

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Identifying circumstances where an employee will be considered to have resigned.  
Discussion of sick leave abuse.  
Clarifying procedure for donated leave.  
Clarifying that service records of former employees seeking reinstatement should be shared with the agency considering hire.  
Clarifying supervisor responsibility to manage and document performance.  
Clarifying nepotism and conflict of interest rules.  
Expanding the use of sick leave to include foster children.  
Setting out minimum human resource policies.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted. Input was solicited through electronic mail, as well as meetings with state human resources personnel.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Daniel Steckel at 429-5507.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 27th day of August, 2003.

Ann Heilman, Administrator  
Division of Human Resources  
700 West State Street  
P.O. Box 83720, Boise, ID 83720-0066  
(208) 429-5500

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-0301**

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**IDAPA 15, TITLE 04, CHAPTER 01****15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES  
AND IDAHO PERSONNEL COMMISSION****001. TITLE, ~~AND~~ SCOPE, AND ENFORCEMENT.**

**01. Title.** These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission". (3-30-01)( )

**02. Scope.** These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

**03. Enforcement.** In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities have the responsibility to ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. ( )

## 2004 - Commerce and HR House Pending Rule (Yellow)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **003. CITATION OF RULES.**

The official citation of the Division of Human Resources and Idaho Personnel Commission's (the "Commission") rules is, for example, IDAPA 15.04.01.072.01. An informal reference may be made to "Rule 072.01". ~~(7-1-93)~~(\_\_\_\_)

#### **004. ADDRESS AND PHONE NUMBERS OF THE DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION.**

The offices of the Division of Human Resources and Idaho Personnel Commission are located at 700 West State Street, Boise, Idaho 83720-2700~~66~~. The phone number of the Commission and the Division of Human Resources is (208) 334-2263. Additional phone numbers are: ~~a job announcement recording at (208) 334-2568~~; a toll-free number, 1-800-554-JOBS (5627); a toll-free TDD or telecommunications device for the deaf, 1-800-542-5738. The Division's and Commission's FAX number is (208) 334-3182. ~~(3-30-01)~~(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **007. DESIGNATION OF OFFICERS.**

The chair~~man~~ of the Idaho Personnel Commission shall be appointed by the Governor pursuant to Section 67-5307(3), Idaho Code. At its first meeting each calendar year, the ~~Personnel~~ Commission shall designate a vice-chair~~man~~ for the ensuing year. ~~(4-5-85)~~(\_\_\_\_)

#### **008. ~~(RESERVED)~~ APPLICABILITY TO HEALTH DISTRICTS.**

These rules apply to Public Health Districts even though specific references are to state employment. (\_\_\_\_)

#### **009. DUTIES OF THE ADMINISTRATOR.**

In addition to other duties as assigned by law, the administrator shall provide administrative support to the Idaho Personnel Commission, shall have custody of the books and records of the Division of Human Resources and ~~Personnel~~ the Commission, and shall maintain a record of the proceedings before the Commission and its hearing officers. ~~(4-5-85)~~(\_\_\_\_)

#### **010. DEFINITIONS.**

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

**01. Administrator.** The Administrator of the Division of Human Resources in the Office of the Governor. (\_\_\_\_)

**042. Allocation.** The assignment of a classification to a pay grade in the compensation schedule. ~~(8-1-81)~~(\_\_\_\_)

**023. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the ~~Personnel~~ Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. ~~(4-5-85)~~(\_\_\_\_)

**034. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the ~~Personnel~~ Commission. ~~(7-1-87)~~(\_\_\_\_)

**05. Appointing Authority.** "Appointing Authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any department. (Ref. Section 67-5302(3), Idaho Code) (\_\_\_\_)

## 2004 - Commerce and HR House Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

**Docket No. 15-0401-0301**  
**Proposed Rulemaking**

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**046. Appointment, Limited.** The appointment of a person to a classified, ~~non-career~~ position where the work is projected to be of limited duration, for which the person has qualified by examination. ~~(4-5-85)~~(\_\_\_\_)

**057. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

**068. Appointment, Original Or Initial.** For purpose of assigning veteran's preference points, the first appointment of time a person is hired by a state agency to any classified position in state service full-time position after attaining eligible veteran's status. (Ref. Section 65-506(3), Idaho Code and Rule 102.04) ~~(4-5-85)~~(\_\_\_\_)

**079. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Chapter 53, Title 67, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. ~~(7-1-87)~~(\_\_\_\_)

**0810. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

**0911. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) ~~(7-1-87)~~(\_\_\_\_)

**102. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. ~~(4-5-85)~~(\_\_\_\_)

**13. Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (\_\_\_\_)

**144. Appointment, Temporary.** The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur on a seasonal basis. (Ref Section 67-5302(33) Idaho Code) ~~(7-1-87)~~(\_\_\_\_)

**125. Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top ten (10) available names, plus names of all individuals with scores identical to the tenth ranking eligible, for certification to fill a position in the classification for which the register was established. ~~(3-30-01)~~(\_\_\_\_)

**136. Classification Specification.** A written statement of the purpose and responsibilities characteristic of a classification, which includes the title, principal accountabilities, and minimum qualifications of education, training and experience, abilities, knowledge, skill, and other qualifications required to perform the work of the classification. ~~(7-1-87)~~(\_\_\_\_)

**147. Classification Schedule.** All classification specifications utilized in classified service listed by title, classification code, and pay grade to which allocated. ~~(4-5-85)~~(\_\_\_\_)

**158. Classified Service.** That body of positions in state departments subject to Chapter 53, Title 67, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (7-1-87)

**169. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules; Division of Human Resources and Idaho Personnel Commission rules and policies; and departmental policies governing employee pay. ~~(7-1-87)~~(\_\_\_\_)

**1720. Compensation Schedule.** The pay grades established by Section 67-5309C, Idaho Code, and associated rates of pay established in Rule 070.05. (3-30-01)

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**~~1821.~~ Consultant.** An independent contractor who provides professional or technical advice, counsel, or service on a set fee basis. (Ref. Rule ~~010.30~~ 050) (7-1-87)(\_\_\_\_)

**~~1922.~~ Demotion.** The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification with a lower entrance salary. ~~Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the promotional probationary period.~~ (Ref. Rule 150.04) (7-1-87)(\_\_\_\_)

**203. Departmental Classification.** A classification of positions that is unique to a department. (7-1-87)(\_\_\_\_)

**214. Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (7-1-87)

**25. Due Process.** As related to Idaho's Personnel System for classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard before involuntary dismissal, suspension, demotion, reduction in pay, or transfer. Classified employees, who have successfully completed a probation period, are entitled to due process. (\_\_\_\_)

**226. Earned Administrative Leave (EAL).** Paid leave for hours worked which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) workweek. In the case of those employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, EAL hours may accrue after hours worked and hours on paid leave exceed one hundred and sixty (160) hours in a period of twenty-eight (28) consecutive days. (3-30-01)

**237. Employee.** Any person in the employ of a state department who is paid a salary or wages. (4-5-85)

**248. Employment History.** The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reason(s) for separation from employment but not including accrued leave balances or usage. (3-30-01)

**259. Examination.** The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

**2630. Factoring.** The assignment of Hay evaluation points to a classification in accordance with Section 67-5309B, Idaho Code, and Rule 074. (3-30-01)

**2731. General Classification.** A classification of positions that is common to more than one participating department. (7-1-87)(\_\_\_\_)

**2832. Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

**33. Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. (\_\_\_\_)

**~~2934.~~ Hours Worked:** (7-1-87)

**a.** Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave or other approved leaves of absence, and excluding on-call time. (Ref. Rule 010.40) (3-30-01)

**b.** Travel time shall be compensated pursuant to policy set forth by the Board of Examiners. (3-30-01)



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**c.** Attendance at lectures, meetings, training programs and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-15-85)

**~~305.~~ Incumbent.** Any person holding a classified or non-classified position in state service. (7-1-87)

**~~346.~~ Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 010.~~4821~~) (~~3-30-01~~)( )

**~~327.~~ Interested Person.** A person or department directly affected by a rule, statute or department action or inaction. (6-30-78)

**~~338.~~ Intoxication.** Being under the influence of alcohol, or misuse of medication or controlled substances. (Ref. Rule 190.01.f.) (3-30-01)

**~~349.~~ Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)

**~~3540.~~ Layoff.** An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

**~~3641.~~ Leave Of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

**~~3742.~~ Leave Of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

**~~43.~~ Light Or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. ( )

**~~3844.~~ Merit Increase.** The advancement of an employee's compensation in accordance with Section 67-5309C(b), Idaho Code. (7-1-87)

**~~3945.~~ Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (~~7-1-93~~)( )

**~~406.~~ New Classification.** A classification that is not essentially described by any existing job classification. (~~7-1-94~~)( )

**~~447.~~ Occasional Or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

**~~428.~~ On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (3-30-01)

**~~49.~~ Organizational Unit (Layoff Unit).** A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). ( )

**~~4350.~~ Overtime.** Those hours defined as such in Section 67-5302(19), Idaho Code, excluding any time, such as traded time and occasional or sporadic work, that is specifically excluded from the overtime calculation by federal law. (7-1-87)

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**4451. Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309C(b)(i), Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B(a), Idaho Code, as approved by the administrator. (3-30-01)

**452. Position, Classified.** A position subject to Chapter 53, Title 67, Idaho Code, and these rules in which one (1) person is hired as a full-time or part-time employee; or in which two (2) or more persons share in the aggregate of the position. (7-1-87)

**4653. Promotion.** The advancement through the competitive process of an employee with permanent status from a position which he or she occupies in one (1) classification to a position in another classification having a higher entrance salary paygrade. (4-5-85)(\_\_\_\_)

**54. Promotion, In-Grade.** To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position which he or she occupies in one classification to a position in another classification having greater Hay points, more responsibility, or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (\_\_\_\_)

**4755. Rating/Job Point Factoring.** The number of Hay evaluation points assigned to a classification in accordance with Rule 074. (7-1-87)(\_\_\_\_)

**4856. Reasonable Accommodation.** An adjustment made to a job and/or work environment that enables a qualified individual with a disability to perform the essential functions of the position and would not cause undue hardship on the operation of the department. (Ref. Rule 190.01.c.) (7-1-87)

**4957. Reclassification Of A Position.** A change of a position from the classification to which it is assigned to another classification. (3-30-01)(\_\_\_\_)

**508. Reclassification Of An Employee.** Means a change in the classification assigned to the employee to properly reflect the duties and responsibilities assigned to that employee by an appointing authority. (3-30-01)

**59. Recruitment.** The process of seeking applicants for employment. (\_\_\_\_)

**5460. Reduction In Pay.** A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (7-1-94)(\_\_\_\_)

**5261. Register.** A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (4-5-85)(\_\_\_\_)

**5362. Reinstatement.** The reappointment of a former or current classified employee pursuant to Rule 1254. (7-1-87)(\_\_\_\_)

**54. Relief Shift Employee.** ~~An employee whose regular assignment is to work during the absences of others. (Ref. Rule 075.01.b.)~~ (12-10-90)

**5563. Resignation.** The voluntary quitting or abandonment of state employment, excluding retirement. (Ref. Rule 244) (6-11-89)(\_\_\_\_)

**564. Respondent.** The party whose interests are adverse to those of the appellant. (7-1-93)

**5765. Status.** The character of an employee's appointment. (7-1-77)

**5866. Suspension.** An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (7-1-87)

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~~596~~**7. Termination.** The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 1502. ~~(3-30-01)~~(\_\_\_\_)

**608. Traded Time.** Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees' option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)

~~64~~**2. Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. ~~(4-5-85)~~(\_\_\_\_)

~~62~~**70. Underfill.** The filling of a classification of position with an employee in a classification of lower pay grade to accommodate a training period as approved by the administrator. ~~(4-5-85)~~(\_\_\_\_)

~~63~~**71. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (12-10-90)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **020. VETERANS PREFERENCE.**

Preference must be given to qualified veterans who are residents of Idaho in all employment actions including hiring, transfer, promotion, and retention except for confidential secretarial positions. (3-30-01)

**01. Veteran Defined** (For Preference Purposes). Any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits and who has been discharged from service under honorable conditions. (Ref. Sections 65-509 and 65-510, Idaho Code) (3-30-01)

**02. Preference Points.** Veterans and disabled veterans who are residents of the state of Idaho, and their widows or spouses, when qualified under state law shall have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Rule 102. (Ref. Rule 093.03, and Sections 65-502, 506, 507, and 67-5309(f), Idaho Code) (3-30-01)

**03. Promotion/Transfer Consideration.** Qualified veterans shall be given additional consideration in promotion and transfer decisions. When candidates are considered to be equal based on valid job related factors, veterans shall be preferred. (Ref. Sections 65-502, 65-504, and 67-5309, Idaho Code) (3-30-01)

**04. Retention.** War veterans (as defined in Chapter 5, Title 65, Idaho Code) shall receive ~~the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points~~ preference for retention in a reduction of work force determination. (Ref. Rule 140) ~~(3-30-01)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **022. PROHIBITED QUESTIONS.**

All questions on applications and examinations shall be based on valid job requirements. Questions which impermissibly discriminate on the basis of race, national origin, color, sex, age, religion, disability, political affiliation, or veteran status are prohibited. Questions regarding veteran status for compliance with veterans' preference are permitted. (Ref. Rule 020) ~~(3-30-01)~~(\_\_\_\_)

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**(BREAK IN CONTINUITY OF SECTIONS)**

**024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.**

The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. All appointing authorities shall establish such policies and standards necessary to implement Rule ~~024~~273. (3-30-01)(\_\_\_\_)

**0265. NEPOTISM.**

No employee shall work under the immediate supervision or management chain-of-command of a ~~supervisor who is~~ a spouse, child, parent, brother, sister or the same relation by marriage. Similar relationships such as significant others, may also create a conflict of interest and should be addressed by agency policy. (Ref. Section 18-1359(e), Idaho Code) (8-1-81)(\_\_\_\_)

**0256. DUAL EMPLOYMENT.**

There shall be no conflicting hours of work when a classified employee is employed by more than one (1) state department. The employee shall obtain approval from all appointing authorities concerned prior to beginning dual employment. (4-5-85)

**027. -- 039. (RESERVED).**

**040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1985.**

The provisions of this rule shall apply to all employees exempt from classified service who, subsequent to April 5, 1985, become subject to the provisions of Chapter 53, Title 67, Idaho Code. (3-30-01)

**01. Probationary Period.** A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the classification assigned to the employee's position. Service uninterrupted by resignation, termination, or dismissal immediately prior to inclusion in classified service shall be considered as probationary service. (3-30-01)(\_\_\_\_)

**02. Certification To Permanent Status.** An employee who has completed a probationary period as required above and who is certified in writing by the appointing authority as serving satisfactorily shall be certified to permanent status without examination. (3-30-01)

**03. Examination.** An employee who has not completed a probationary period as required above shall be required to pass an examination for the classification assigned to the employee's position. Prior to passing such examination, the employee's status shall be provisional. (3-30-01)(\_\_\_\_)

**04. Separation.** An employee who is not certified by the appointing authority as serving satisfactorily shall be separated from state service no later than thirty (30) calendar days after inclusion in classified service. An employee who fails to pass the examination or had an opportunity to have such examination and not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-30-01)

~~**05. Salary.** The salary of an employee, under these rules, shall be adjusted to the pay rate in the pay grade allocated to the employee's class that represents no salary loss from the employee's base rate in nonclassified status. (3-30-01)~~

**065. Salary Protection.** If the salary of an employee, brought under classified service under Rule 040, is greater than the highest rate of the pay grade of the classification to which assigned, the employee's salary shall ~~not~~ be ~~reduced~~ protected; ~~but he or she shall thereafter receive no salary increase, except for bonuses provided under Section 67-5309C, Idaho Code to the maximum of their new paygrade.~~ (3-30-01)(\_\_\_\_)

**041. -- 049. (RESERVED).**

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#### **050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.**

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

**01. No Fee Basis.** No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

**02. Limited Use Only.** Individuals employed through contracts with temporary services or professional staffing agencies shall be utilized only for short-term situations. (3-30-01)

**03. Conflict Of Interest/Nepotism.** Agency policies regarding conflict of interest/nepotism apply to awarding work to consultants and contractors. See Rule 024 and 025. ( )

**04. Not To Be Treated As Employees.** Independent contractors, their staff or consultants shall not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. ( )

**051. -- 059. (RESERVED).**

#### **060. ADOPTION OF CLASSIFICATION SCHEDULE.**

~~Adoption of Compensation Schedule.~~ The Division of Human Resources, after consulting with each appointing authority, shall develop, adopt, and make effective a classification schedule consisting of classification specifications allocated to various pay grades in the compensation schedule for all positions based on an analysis of the duties and responsibilities of representative positions. (4-5-85)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

#### **063. REVIEW OF CLASSIFICATION SCHEDULE.**

The administrator, in cooperation with the various appointing authorities, shall ~~review the classification schedule to~~ ensure the appropriateness and accuracy of ~~existing~~ classification specifications. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

#### **065. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.**

**01. New And Refactored Classifications.** New classifications of work and revised classifications ~~shall be submitted~~ require approval by both the administrator ~~to~~ and the Division of Financial Management administrator ~~for approval~~ when there is a fiscal impact. (3-30-01)( )

**02. Revised And Deleted Classifications.** Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. (7-1-94)( )

#### **066. ABOLISHMENT OF POSITIONS.**

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 1478. (7-1-87)( )

#### **067. RECLASSIFICATION OF POSITIONS.**

**01. Procedure.** Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by Division of Human Resources' staff of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly

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classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified. (4-5-85)

**02. Effective Date.** Reclassifications of positions shall not be effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee shall not precede the effective date of the reclassification of the position. (3-30-01)

**03. Violations.** *Upon a determination of the administrator that an incumbent employee is improperly classified, the administrator shall notify the employee, the appointing authority, and the state controller's office that the employee is being compensated in violation of these rules. (Ref. Section 67-5312, Idaho Code) (7-1-87)*

#### **068. VIOLATIONS.**

Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules. (Ref. Sections 67-5308 and 67-5312, Idaho Code) ( )

~~068.~~—**069. (RESERVED).**

#### **070. COMPENSATION OF EMPLOYEES.**

**01. The Hay System.** The Division of Human Resources will use the Hay method of point factoring to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) ( )

**042. Conduct Of Salary Surveys.** The Division of Human Resources shall conduct or approve salary surveys, to determine salary ranges that represent relevant competitive labor market average rates for all Hay point factored positions in the classified service. (7-1-94)( )

**023. Relevant Labor Markets** ~~For Classifications Up To Two Hundred Seventy Points.~~ For classifications up to two hundred seventy (270) points, the comparator market shall consist of the Idaho in-state market, representing private and public employers in the state. Labor markets used for wage comparison shall be based on the projected hiring market for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. (7-1-94)( )

**a.** When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. ( )

**b.** For jobs with more regional competition or those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. ( )

**c.** Recruitment and retention issues will be used to determine the need for additional special market surveys. Other surveys may be conducted or obtained to address specialty areas. ( )

**03. Relevant Labor Markets** ~~For Classifications From Two Hundred Seventy One To Five Hundred Fifty Points.~~ For classifications from two hundred seventy one (271) to five hundred fifty (550) points, the comparator market shall be the Idaho in-state market, representing private and public employers, and a group of nine (9) Western State governments, consisting of Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. (7-1-94)

**04. Relevant Labor Markets** ~~For Classifications Above Five Hundred Fifty Points.~~ For classifications above five hundred fifty (550) points, the comparator market is the nine (9) Western State governments identified in Rule 070.03, and other relevant markets. (3-30-01)

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**054. Salary Schedule.** The administrator shall adopt the salary ranges for the pay grades in Section 67-5309C, Idaho Code, ~~which normally represents eighty-five percent (85%) to one hundred twenty-five percent (125%) of the payline policy formulas in Section 67-5309B, Idaho Code,~~ in a public meeting after notice, and a current salary schedule shall be ~~provided to~~ made available to the public and all appointing authorities. (3-30-01)(\_\_\_\_)

**065. Compensation Plan.** Significant changes to components of the compensation plan shall be presented in a public meeting after notice. (3-30-01)

### **071. COMPENSATION PLAN REVIEWS.**

**01. ~~Review OF Compensation Schedule.~~** The Division of Human Resources in cooperation with the various appointing authorities shall conduct reviews of the compensation plan. (3-30-01)

**02. ~~Affirmation Of Factoring.~~** ~~In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct.~~ (7-1-93)

### **072. OPERATION OF COMPENSATION PLAN.**

**01. Authorized Pay Rate.** No employee in the state classified service shall be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification, except as provided in ~~Rule 042, and Rules 040.06, and 072.06, and~~ Section 67-5309C(b)(i), Idaho Code. (3-30-01)(\_\_\_\_)

**02. ~~Entrance Starting Salary.~~** The ~~entrance starting~~ salary for a new appointee ~~shall fall~~ may be anywhere within the paygrade assigned to the employee's classification ~~except when a payline exception is necessary to hire a particularly qualified individual~~ and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (Ref. Section 67-5309C(b)(i), Idaho Code) (3-30-01)(\_\_\_\_)

**03. Payline Exceptions.** Temporary assignments to a new pay grade may be made by the administrator pursuant to Section 67-5309(c)(b)(i), Idaho Code. Such assignments shall apply to an entire classification for the purpose of recruitment or retention and shall be reviewed annually to determine the need for continuance. (3-30-01)(\_\_\_\_)

**04. Salary After Reappointment From Layoff.** An employee appointed ~~from a layoff register~~ by the agency that laid them off (Rule 101.01 and Rule 1456) shall be paid in the current pay grade for the classification to which reappointed or at the same payrate he or she received immediately preceding layoff, whichever is greater but not to exceed the maximum of the current paygrade. (3-30-01)(\_\_\_\_)

**05. Salary Upon Transfer.** (7-10-88)

**a.** A transfer between departments (Rule 1265) in the same classification or one (1) of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (3-30-01)(\_\_\_\_)

**b.** If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-30-01)(\_\_\_\_)

**06. Salary Upon Reinstatement.** (7-10-88)

**a.** ~~Except as otherwise provided in the following rule~~ Unless related to reemployment after a lay off, the salary of a reinstated employee (Rule 1254) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (3-30-01)(\_\_\_\_)

**07. Salary Upon Downward Reassignment.** When a classification is reassigned downward the employee's salary will be protected to the maximum within the new paygrade. ~~If a particularly qualified employee's salary is above the highest rate of the new paygrade, the appointing authority may petition the administrator to~~

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~~"freeze" the employee's salary.~~

~~(3-30-01)( )~~

**08. Salary Upon Return From Military Duty.** An employee who returns to state service from active military duty in accordance with the provisions of Sections 65-511 or 65-512, Idaho Code, shall be paid at the comparable rate in the current pay grade for the classification to which he or she was assigned prior to leaving for military service. (3-30-01)

### **073. CALCULATION OF PAY.**

**01. Standard Calculation Of Pay.** For other than police, correctional officers, or fire employees, pay shall be calculated in the following order: (3-30-01)

- a. Holiday pay; (12-10-90)
- b. All hours worked on a holiday as overtime; (12-10-90)
- c. All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work and traded time; (12-10-90)
- d. Vacation, sick and other paid or unpaid leaves; and (12-10-90)
- e. All remaining hours worked at the employee's regular rate of pay, with the optional use of earned administrative leave. Shift differential pay shall be calculated according to Rule 075 and paid in addition to any other compensation. (Ref. Sections 67-5302(19), 67-5329, Idaho Code; Rules 010.394 ~~through~~ 010.41, 010.542, 010.48, 010.50 and 073.03 ~~and 250~~) ~~(12-10-90)( )~~

**02. Calculation Of Pay For Police, Correctional Officers, And Fire Employees.** Police, Correctional Officers, and fire employees on a twenty-eight (28) day work schedule shall be compensated as described above, except that overtime shall be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek, and earned administrative leave shall be calculated based on eighty (80) hours in a biweekly pay period instead of on a weekly basis. (3-30-01)

### **03. Holiday Pay Calculation.** (7-1-87)

a. All classified employees of like classification, shall be treated equally with reference to hours of employment, holidays, and vacation leave. (Ref. Section 67-5326, Idaho Code) (3-30-01)

b. A full-time employee shall receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee shall receive eight (8) hours of holiday pay. An employee must receive ~~pay either the scheduled workday before or after the holiday in order~~ some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. ~~(3-30-01)( )~~

c. A part-time employee who has a regular work schedule shall be paid for a holiday ~~in~~ in the same proportion to eight (8) hours that the hours the employee normally works in a week bear to forty (40), which for calculation purposes converts to two tenths (.20) x hours normally worked; ~~or 2) to the extent the employee would have worked had the holiday been a regular workday. The use of method 1) or 2) is discretionary with the appointing authority.~~ ~~(7-1-87)( )~~

d. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, ~~an appointing authority may substitute the following method for 1) above:~~ the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs bear to forty (40). ~~(4-5-85)( )~~

e. Schedules resulting in holiday time off in excess of eight (8) hours must only be approved in such a way as to treat all members of the affected job classification equally. Appointing authorities may suspend flex schedules during holiday weeks or may grant administrative leave or otherwise adjust work schedules to ensure



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equity. (3-30-01)

**04. Reduction Of Salary.** The salary of an employee receiving more than the lowest rate of the pay grade for his or her classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (~~7-1-94~~)(    )

**05. Temporary Merit Increases.** Temporary merit increases shall not be calculated retroactively. (Ref. Section 67-5309C(b)(ii), Idaho Code) (7-10-88)

**06. Department Salary Administration Policies.** Each department shall adopt and file with the administrator current salary administration policies for the following actions to insure fairness and equity for all employees within that department: (3-30-01)

- a. Merit increases and bonuses (Section 67-5309C(b), Idaho Code, and Rule 073.05.); (7-1-94)
- b. Reclassification (Rule 067); (4-5-85)
- c. Demotions (Rule ~~180~~ 179); (~~4-5-85~~)(    )
- d. Intradepartmental transfers (Rule ~~126~~ 5); (~~4-5-85~~)(    )
- e. Failure to complete promotional probationary periods (Rule ~~152.03~~ 150.); (~~4-5-85~~)(    )
- f. Promotions (Rule ~~170~~ 169); (~~4-5-85~~)(    )
- g. On-call time (Rule 010.408). (~~4-5-85~~)(    )

**07. Salaries For Temporary Appointments.** Except as provided by the following rule, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (4-5-85)

### **074. ASSIGNMENT OF HAY EVALUATION POINTS.**

**01. Assignment To Pay Grade.** Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (~~3-30-01~~)(    )

**02. Guide Charts.** The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (~~3-30-01~~)(    )

**03. Factoring Benchmarks.** The factoring benchmarks correlated by Hay Management Consultants shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (~~3-30-01~~)(    )

**04. Factoring Process.** Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (~~3-30-01~~)(    )

a. Informal Agreement. The appointing authority presents the new or revised classification and factoring recommendation informally to the administrator of the Division of Human Resources or designee and there is agreement on the points assigned. (~~3-30-01~~)(    )

b. Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and

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present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference.

(~~3-30-01~~)( )

c. Hay Management Consultants. After consultation with the appointing authority, the administrator may refer the classification to Hay Management Consultants for a factoring analysis.

(~~3-30-01~~)( )

**05. Approval.** After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division of Human Resources shall have final approval of the Hay evaluation points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code.

(~~3-30-01~~)( )

### **075. SHIFT DIFFERENTIAL.**

#### **01. Eligibility.**

(12-10-90)

a. Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6 p.m. and 7 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked.

(12-10-90)

b. Shift differential compensation shall be paid for all hours worked by an relief shift employee whose primary responsibility is to work in place of an absent employee and, whose assigned schedule varies from nights, days, and swing during a forty (40) hour work week.

(~~12-10-90~~)( )

#### **02. Shift Pay Rate.** Shift differential compensation shall be paid at the rate of five percent (5%).

(7-1-94)

**03. Hours Paid At Shift Rate.** If an employee qualifies for shift differential pay during a workweek, the shift rate shall be calculated for all hours reported in that week, including holiday pay, overtime and leave taken. The resulting amount of shift differential pay shall be included in the compensation for that pay period.

(12-10-90)

**04. Ineligible Employees.** Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for shift differential compensation. (Ref. Section 67-5329(1), Idaho Code)

(3-30-01)

**05. Multiple Positions.** For an employee who has more than one (1) position, eligibility for shift differential shall be determined by position.

(2-6-92)

### **076. ALTERNATIVE WORK SCHEDULES AND LOCATIONS.**

An appointing authority may allow alternative work schedules and locations including flexible schedules, job-sharing, and telecommuting when determined to be in the best interests of the state and the employee. Internal policies on such options must be published for all employees and filed with the administrator. If applicable, agency policies must address:

( )

a. Conditions of participation;

( )

b. Equipment use and provision;

( )

c. Workers compensation and liability issues; and

( )

d. Confidentiality.

( )

### **077. BONUSES.**

**01. Performance Bonuses.** Up to a total of one thousand dollars (\$1,000) may be awarded each fiscal year, in recognition of excellent performance. A memo documenting such performance should be provided to the employee and placed in their personnel file. (Ref. Section 67-5309C(b)(iii), Idaho Code)

( )

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**02. State Resource Savings Bonuses.** Up to a total of one thousand dollars (\$1,000) may also be awarded each fiscal year, in recognition of an employee's idea to save state resources. Each agency will develop an internal procedure to provide for prompt consideration and distribution of awards. (Ref. Section 67-5309C(b)(iv), Idaho Code) ( )

**a.** Suggestions, that when implemented result in significant savings, may result in a larger bonus, but such amounts must be approved by the Board of Examiners. ( )

**b.** Suggestions aimed at saving money outside the employee's state agency should be submitted to the employee's agency first and then routed to the Division of Human Resources for centralized coordination and tracking. The Division of Human Resources will forward the suggestion to the agency able to address implementation. ( )

**0768. -- 079. (RESERVED).**

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **082. METHODS OF RECRUITMENT.**

For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, ~~and~~ department promotional, or statewide promotional. The scope of advertising and outreach for each approach will vary with agency preference, needs, and labor market strategies. (3-30-01)( )

#### **083. ~~LOCATION OF EXAMINATIONS (RESERVED).~~**

~~When the administrator determines it to be in the best interest of the personnel system, examinations may be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications.~~

(3-30-01)

#### **084. ANNOUNCEMENT OF ~~EXAMINATIONS~~ RECRUITMENT.**

**01. Distribution Of Announcements.** The announcement of each open-competitive ~~examination recruitment~~ shall be supplied to the appropriate local offices of the Idaho Department of Labor and to other locations determined necessary by the administrator to develop a register of eligibles. If the open-competitive ~~examination recruitment~~ has been requested by the appointing authority in lieu of a promotional ~~examination recruitment~~, it shall be his or her responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that department prior to its expiration date. (Ref. Rule 17069-01.b-) (4-5-85)( )

**02. Posting Of Promotional Announcements ~~Within Departments~~.** The announcement for each promotional ~~examination recruitment~~ shall be supplied to the appointing authority of each affected department. It shall be his or her responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the department prior to the expiration date. (4-5-85)( )

#### **085. CONTENT OF ANNOUNCEMENTS.**

Each announcement ~~of an examination~~ shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of ~~the~~ examination, ~~relative weights of the various portions of the examination~~, qualifying score, closing date, equal opportunity employer, veterans preference and other pertinent information. (4-5-85)( )

#### **086. APPLICATIONS.**

**01. Form.** All applications shall be filed ~~on~~ in the form prescribed by the administrator. ~~A separate form must be filed for each class for which application is made unless otherwise prescribed in the announcement.~~ (8-1-81)( )

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**02. Filing Of Applications.** Applications are currently accepted by internet application system, mail, personal delivery, electronic mail and FAX to the Division of Human Resources. ~~Whenever applications are filed by electronic mail or FAX, the original shall be deposited in the mail the same day or hand delivered the following day.~~ An application will also be considered timely if any Job Service or agency human resources office receives and date stamps it by the closing date, notifies the Division of Human Resources, and ensures that it is delivered to the Division of Human Resources by close of the next business day. (3-30-01)(\_\_\_\_)

**03. Application By Military Personnel.** An application ~~for examination~~ will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the ~~examination~~ announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of ~~the an~~ examination. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502 and 67-5309(f), Idaho Code) (4-5-85)(\_\_\_\_)

**04. ~~Examination Of~~ Application By Disabled Veterans.** A disabled veteran may file an application ~~for examination~~ at any time for any classification for which the Division of Human Resources maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a classification in the same or higher pay grade as the classification for which application is made. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502, 65-507 and 67-5309(f), Idaho Code) (4-5-85)(\_\_\_\_)

**05. Promotion Of Entrance Probationary Employee.** Any classified employee on entrance probation may file an application for a promotional opportunity ~~but may not be~~ and placed on a register ~~but may not be appointed~~ until permanent status has been attained. Although on a register, as probationary, the employee's name does not count in the top ten (10) candidate ranking. (Ref. Rules 16059.01. and 17069.03.) (7-1-87)(\_\_\_\_)

**06. Disclosure Of Information For Hiring Purposes.** By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 9-340C, Idaho Code). (12-10-90)

### **087. DENIAL OF APPLICATIONS.**

**01. Basis.** The administrator may choose not to process an application ~~for examination~~ if: (3-30-01)(\_\_\_\_)

**a.** The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-30-01)

**b.** The application was not received on or before the closing date for acceptance of applications. (3-30-01)

**c.** A background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Rule 190. (3-30-01)

**02. Further Actions.** When any such finding under Rule 087.01 is made, the administrator may deny the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility register. If the applicant has already received appointment, the administrator may take appropriate action to have the employee removed from the position. (3-30-01)

**088.—089. (RESERVED).**

### **089. LOCATION OF EXAMINATIONS.**

To enhance recruiting efforts, agencies may request examinations be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications. (\_\_\_\_)

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### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.**

**01. Designation Of Examiners.** The examinations shall be conducted and rated by persons designated by the administrator. (8-1-81)

**02. Scoring Of Examinations.** Each examination shall be rated for final scores on the basis of one hundred (100) point maximum. The Division of Human Resources' staff shall use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (3-30-01)

**03. Veterans<sup>2</sup> Preference.** (~~4-5-85~~)(    )

**a.** Veterans<sup>2</sup> and disabled veterans<sup>2</sup> points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Veterans<sup>2</sup> preference points are only applicable when the applicant is a resident of Idaho. (Ref. Sections 65-502 and 67-5309(f), Idaho Code) (~~4-5-85~~)(    )

**b.** Veterans<sup>2</sup> and disabled veterans<sup>2</sup> preference points shall not be added to the raw score in order to achieve a passing score. (~~4-5-85~~)(    )

**04. Failing Score.** Failure in any part of the examination may disqualify the applicant in the entire examination and from having his or her name placed on the register. Final scores shall be computed in accordance with weights assigned the individual factors in the total examination. (4-5-85)

**05. Use Of Alternate Announcement.** An examination may be rated for another classification under current announcement at the discretion of the administrator. (~~4-5-85~~)(    )

**06. Waiver Of Examination.** Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator. These Applicants meeting minimum qualifications shall be eligible for appointment and their placement on the register shall take into account veterans' preference. When using registers developed in this manner, appointing authorities shall provide the opportunity for placement interviews for each applicant on the register. (~~3-30-01~~)(    )

**07. Examination Upon Reclassification.** An employee occupying a position which is reclassified (Rule 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (~~4-5-85~~)(    )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **095. NOTICE AND RECORD OF RESULTS OF EXAMINATION.**

All competitors shall be notified ~~by mail~~ of their final scores electronically or by mail. The records of scores shall be held as official records for the life of the resulting eligibility registers. (~~3-30-01~~)(    )

#### **096. REVIEW AND APPEAL.**

**01. Review Of Examination Content And Scoring Material.** Any competitor, or his/her representative authorized in writing, shall be permitted to inspect his/her own papers and records, except examination content and scoring material, upon application in person at the office of the Division of Human Resources in Boise during business hours. Alternative arrangements are available for competitors located outside of Boise. Review shall be limited to the time allowed for appeal of examination scores. (~~3-30-01~~)(    )

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**02. Appeal Of Examination Score.** Any competitor, by written request to the administrator, may appeal his or her examination score within thirty-five (35) calendar days after the notice was ~~mailed~~ sent to such competitor. The administrator shall review the test, may change the score, and may take any other action necessary to insure the integrity and quality of the testing process. When such review discloses error affecting the scores of other competitors, the review and adjustment shall include their scores. The administrator shall provide a written explanation to competitors whose scores are affected by the action taken. ~~(3-30-01)~~(\_\_\_\_)

#### **097. ALTERNATIVE EXAMINATION PROCESS FOR PERSONS WITH DISABILITIES.**

**01. Conditions For Eligibility.** Notwithstanding other provisions in these rules, an agency may appoint an individual directly into entrance or promotional probationary status in a classification if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind, or the Industrial Commission certifies the following: ~~(7-1-93)~~(\_\_\_\_)

**a.** That the individual has a physical or mental impairment that substantially limits one (1) or more major life activities, as further defined under state or federal law; (3-30-01)

**b.** That the individual meets the minimum qualifications of the classification and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and ~~(7-1-93)~~(\_\_\_\_)

**c.** That the individual lacks competitiveness in the examination process due to the disability. (Ref. Section 67-5309(e), Idaho Code.) ~~(3-30-01)~~(\_\_\_\_)

**02. Concurrence Required.** The certification shall be made with the concurrence of Division of Human Resources. (3-30-01)

**03. Probationary Period.** The probationary period shall be the sole examination for individuals certified under this alternative examination process. (Ref. Rule 150.) (7-1-93)

#### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **101. TYPES OF ELIGIBILITY REGISTERS.**

There are four (4) kinds of eligibility registers: (4-5-85)

**01. ~~Layoff~~ Reemployment Preference Registers.** ~~Departmental layoff registers~~ Registers with reemployment preference shall for a given classification contain the names of classified employees of permanent ~~or probationary~~ status who have been laid off ~~or demoted because of shortage of work or funds, reorganization, or abolishment of a position. Ranking on such register is to be made in accordance with Rule 146, governing employee preference except limited service appointments. (See Rule 140).~~ ~~(4-5-85)~~(\_\_\_\_)

**02. Departmental Promotional Registers.** Departmental promotional registers shall for a given classification contain the names of classified employees ~~with permanent status~~ in a given department who successfully passed a departmental promotional examination for the class. (Ref. Rule 086.05) ~~(4-5-85)~~(\_\_\_\_)

**03. Statewide Promotional Registers.** Statewide promotional registers shall for a given classification contain the names of all classified employees ~~with permanent status~~ in all state departments who successfully passed a statewide promotional examination for the class. (Ref. Rule 086.05) ~~(4-5-85)~~(\_\_\_\_)

**04. Open Competitive Registers.** Open competitive registers shall for a given classification contain the names of applicants who successfully passed an open-competitive examination for the classification. ~~(4-5-85)~~(\_\_\_\_)

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#### **102. PLACEMENT ON REGISTER.**

**01. Score Order.** Eligible candidates shall be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. ~~(3-30-01)~~(\_\_\_\_)

**02. Veterans' Preference.** Eligible veterans or surviving spouses entitled to five (5) point preference shall be placed on the open-competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule 093.03, and Section 65-506, Idaho Code) ~~(3-30-01)~~(\_\_\_\_)

**03. Disabled Veterans' Preference.** Eligible disabled veterans or surviving spouses entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other candidates in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03, Section 65-605, Idaho Code) (3-30-01)

**04. Veterans' Preference For Initial Appointment Only.** The additional points added by reason of veterans' preference shall be used ~~for initial appointment~~ the first time a qualified veteran is hired by a state agency and not for the purpose of promotions ~~in classified service~~. (Ref. Section 65-506, Idaho Code) ~~(3-30-01)~~(\_\_\_\_)

#### **103. DURATION OF ELIGIBILITY REGISTERS.**

**01. Eligible Candidates.** Eligible candidates on ~~layoff~~ registers indicating reemployment preference due to layoffs will remain thereon for ~~twelve~~ eighteen (128) months. (Ref. Rule 101.01) ~~(3-30-01)~~(\_\_\_\_)

**02. Duration.** The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-30-01)

#### **104. REMOVAL OF NAMES.**

**01. Reasons Specified.** Names may be removed from any eligibility register(s) by the administrator because of: ~~(4-5-85)~~(\_\_\_\_)

**a.** Appointment of the eligible candidate from the register to the classification or appointment to a classification in a higher pay grade. ~~(3-30-01)~~(\_\_\_\_)

**b.** A statement by the eligible candidate that he or she is not willing to accept appointment under conditions previously specified. ~~(3-30-01)~~(\_\_\_\_)

**c.** Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible candidate from satisfactorily performing the essential functions of the position with reasonable accommodation for the disability. ~~(3-30-01)~~(\_\_\_\_)

**d.** Failure of an eligible candidate to respond within seven (7) calendar days to documented good faith inquiry concerning availability for employment. ~~(4-5-85)~~(\_\_\_\_)

**e.** The eligible candidate's conduct renders him or her unsuitable for ~~a~~ the position ~~in the state service~~ or classification for which he or she applied. ~~(3-30-01)~~(\_\_\_\_)

**f.** Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator. (3-30-01)

**g.** Conviction of an eligible candidate of any felony. (3-30-01)

**h.** False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (3-30-01)

**i.** Dismissal of an eligible candidate from state service. (3-30-01)

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**i.** Paying, promising to pay, or giving any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment. (\_\_\_\_)

**k.** Directly or indirectly obtaining information regarding examinations to which, as an applicant, he or she is not entitled. (\_\_\_\_)

**l.** Refusing an interview or refusing to accept a position under the conditions set forth in the recruitment announcement. (\_\_\_\_)

**m.** Having been certified for a probationary appointment for three (3) separate positions in the same classification in the same department and not been accepted for employment for good cause. (\_\_\_\_)

**n.** Declining three (3) separate offers of employment or reemployment without good cause. (\_\_\_\_)

**02.** ~~**Removal For Improper Influence.** The administrator may remove from an eligibility register the name of any person who has paid, promised to pay, or given any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment; or any person who has directly or indirectly obtained information regarding examinations to which, as an applicant, he or she is not entitled.~~ **Limitations And Duration Of Removal.** The administrator shall determine if the candidate will be removed from all registers, registers for a particular classification, or registers for specified agencies. All removals will be for one (1) year unless otherwise authorized by the administrator. (4-5-85)(\_\_\_\_)

**03.** ~~**Refusal Of Interview Or Position.** Any eligible candidate who refuses an interview or refuses to accept a position under the conditions set forth in the examination announcement may have his or her name removed from the eligibility register by the administrator.~~ (3-30-01)

**04.** ~~**Removal Of Names.** If the name of an eligible candidate has been certified for a probationary appointment for three (3) separate positions in the same class in the same department and has not been accepted for good cause, an appointing authority may request in writing to the administrator that the candidate not be certified to that department again for that class.~~ (7-1-87)

**05.** ~~**Removal For Declining Three Offers.** Upon written petition from an appointing authority, an employee's name may be removed from a departmental layoff register if the employee declines three (3) separate offers of reemployment without good cause. (Ref. Rule 101.01)~~ (7-1-87)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **107. ABOLISHMENT OF CLASSES.**

~~Whenever a class is abolished, names on existing eligibility registers for the class may be combined with names on a comparable register providing the candidates meet the minimum qualifications for the class represented by the comparable register.~~ (4-5-85)

#### **1087. REVISION OF CLASSIFICATION SPECIFICATIONS.**

Whenever a classification specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised classification shall be placed in score order on the eligibility register for the revised classification. (4-5-85)(\_\_\_\_)

#### **1098. (RESERVED).**

#### **1402. CERTIFICATION AND SELECTION.**

Whenever a vacancy in a classified position is to be filled by ~~the~~ a competitive ~~examination~~ recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' staff. Internal agency transfers or reinstatements do not require registers certified by the Division of Human Resources. (4-5-85)(\_\_\_\_)



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#### **1140. NUMBER OF NAMES ON REGISTER.**

The Division of Human Resources' staff shall certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among ten (10) eligible candidates successively for each position to be filled. If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates shall be certified. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have ten (10) names to consider for each vacancy. The names of all eligible candidates with scores identical to the tenth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes.

~~(3-30-01)~~(\_\_\_\_)

#### **1121. ADEQUATE REGISTERS.**

A register with at least five (5) eligible candidates shall be adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may:

(3-30-01)

- 01. Selection From Inadequate Register.** Hire an eligible candidate listed on an inadequate register.

(3-30-01)

- 02. Provisional Appointment.** Make a provisional appointment pursuant to Rule 120.05. (3-30-01)

- 03. Request Certification.** Request the administrator authorize certification from an eligibility register for a comparable classification.

~~(3-30-01)~~(\_\_\_\_)

- 04. Special Request.** Request specialized recruitment.

(3-30-01)

#### **1132. SELECTIVE CERTIFICATION.**

The administrator may authorize selective certification from a register where specific qualifications for a position are justified by an appointing authority in addition to the minimum qualifications for the classification.

~~(4-5-86)~~(\_\_\_\_)

#### **1143. -- 1148. (RESERVED).**

#### **12019. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.**

- 01. Form.** Appointing authorities shall notify the administrator of each appointment on the prescribed form.

(2-6-92)

- 02. ~~Layoff~~ Reemployment Preference Register.** New appointments to a classification within a department are not permissible if there is a departmental ~~layoff~~ reemployment preference register (Rule 101.01) for that classification with names of eligibles who are willing to accept employment.

~~(3-30-01)~~(\_\_\_\_)

- 03. Credited State Service.** Except as provided by Rules 040 and 250.02, no classified credited state service shall accrue to employees for any service under temporary, project exempt, or nonclassified appointments.

(7-1-87)

- 04. Probationary Period Required.** All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification shall be probationary appointments except as otherwise provided in Rules 040, and 150.

~~(3-30-01)~~(\_\_\_\_)

- 05. Provisional Appointment.**

(7-1-93)

- a.** A provisional appointment may be authorized in the absence of an adequate register ~~of eligibles. A provisional appointment will not be authorized if the announcement for the position is closed pending establishment of a register.~~

~~(4-5-85)~~(\_\_\_\_)

- b.** In nominating a person for provisional appointment, the appointing authority shall transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications established for the classification, the nominee may be provisionally appointed to fill an existing vacancy in a position

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for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position shall not be permitted unless specifically authorized by the administrator. (4-5-85)(\_\_\_\_)

c. Provisional incumbents shall be given opportunity to take the examination for the classification of position. Any provisional employee who fails to pass such an examination within certifiable range or who has an opportunity to take such an examination and has not ~~availed himself or herself thereof~~ done so shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (4-5-85)(\_\_\_\_)

~~d. A period of provisional service immediately prior to an employee's probationary appointment from an eligibility register shall be credited to the probationary period. (Ref. Rule 154)~~ (4-5-85)

#### **1240. LIMITED SERVICE APPOINTMENTS.**

01. ~~Length Of Limited Service. Limited-service appointments (ref. Rule 010.04 for definition) are restricted to six thousand two hundred forty (6,240) hours of credited state service for non-career positions of relatively short duration.~~ **Designation.** Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (4-5-85)(\_\_\_\_)

02. ~~Conversion To Permanent Status And Expedited Layoff.~~ Employees appointed under limited-service appointments ~~will automatically convert to career employees with permanent status if employed in limited-service appointments in excess of six thousand two hundred forty (6,240) hours~~ have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Rule 140.03.c. (4-5-85)(\_\_\_\_)

03. **Limited Service Agreement.** Appointing authorities making limited-service appointments shall prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and/or updated agreements are required every two (2) years. A copy of ~~this~~ the agreement shall be submitted to the administrator. (12-10-90)(\_\_\_\_)

#### **1221. SEASONAL APPOINTMENT.**

01. **Purpose.** An appointing authority may make a seasonal appointment from a register for work that occurs intermittently during the year. (Ref. Idaho Code Section 67-5302(301), Idaho Code). (12-10-90)(\_\_\_\_)

02. **Employee Rights.** Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 1478, relating to reduction in force. (12-10-90)(\_\_\_\_)

03. **Separation.** Employees appointed under a seasonal appointment may be separated from the seasonal appointment and returned ~~thereto~~ as frequently as intermittent workload dictates. (12-10-90)(\_\_\_\_)

04. **Duration Of Appointment.** If an employee has not been called to work for six thousand two hundred forty (6,240) hours (three (3) years), the seasonal appointment expires; rehire of the employee must be from a register. (12-10-90)

#### **1232. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).**

Temporary appointments shall be limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one (1) department. Both calculations shall begin on the date of the original temporary appointment. An applicant who is hired as a temporary employee from a hiring list created from a certified register, and serves at least one thousand forty (1,040) hours of continuous service, may be hired by the employing agency into that position in classified service as an entrance probationary employee without further examination. The announcement for the temporary position from which the certified register was created must indicate that the temporary position has the potential of becoming a permanent classified position. The classified position must be in the same classification and at the same location as announced. (Ref. Section 67-5302(323), Idaho Code), ~~for~~ definition. (7-1-87)(\_\_\_\_)

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### **1243. PROJECT-EXEMPT APPOINTMENTS (NON-CLASSIFIED).**

Project-exempt appointments are non-classified positions and shall be limited to the length of the project grant or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is shorter. (Ref. Section 67-5303(m), Idaho Code). ~~for definition.~~ (4-5-85)(\_\_\_\_)

### **125. REINSTATEMENTS.**

**01. Eligibility.** As determined by the administrator, a current or former employee shall be eligible for reinstatement to a classification in which he or she held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.05). (3-30-01)(\_\_\_\_)

**a.** Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-30-01)

**b.** The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (4-5-85)(\_\_\_\_)

**c.** The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (4-5-85)(\_\_\_\_)

**02. Reinstatement Prohibited.** Reinstatement of a current or former employee is not permissible as long as there is a departmental ~~layoff~~ register (Rule 101.01) for ~~the~~ that classification with names of eligibles who ~~are~~ willing to accept have reemployment preference status. (4-5-85)(\_\_\_\_)

**03. Examination.** The administrator may require a current or former employee to pass an examination for the classification to which reinstatement is desired. (4-5-85)(\_\_\_\_)

**04. Probationary Period.** An appointing authority may negotiate for a probationary period as a condition of reinstatement except as provided in Rule 1254.05 or when hiring off a ~~layoff~~ register with reemployment preference status. (3-30-01)(\_\_\_\_)

**05. Return From Military Duty.** An employee returning from military leave without pay (Rule 250.05) who is relieved or discharged from military duty under conditions other than dishonorable shall be, upon application, reinstated in his or her former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-511 and 65-512, Idaho Code, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made within ninety (90) calendar days after separation from military duty or from hospitalization continuing after discharge up to one (1) year. Salary treatment is covered by Rule 072.08. (3-30-01)

### **1265. TRANSFERS.**

**01. Authority To Transfer.** An appointing authority may transfer an employee at any time from one position to another in the same classification. (4-5-85)(\_\_\_\_)

**02. Transfer Within Pay Grade.** An appointing authority may transfer an employee from a classification in which he or she holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications. (4-5-85)(\_\_\_\_)

**03. Probationary Period.** An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intradepartmental transfers. (Ref. Rule 150.02). (3-30-01)(\_\_\_\_)

**04. Limitation.** Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 1478. (7-1-87)(\_\_\_\_)

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**05. Transfer Between Departments.** An employee shall be eligible for transfer between departments in the same classification in which he or she holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave shall be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.04. ~~(7-1-87)~~( )

**06. Restriction.** Transfer of an employee between departments is not permissible as long as there is a departmental ~~layoff~~ register with reemployment preference status (Rule 101.01) for the classification in the department to which transfer is desired with names of eligibles who are willing to accept reemployment. ~~(4-5-85)~~( )

**07. Examination.** The administrator may require an employee transferring between classifications to pass an examination for the classification to which transfer is desired. ~~(4-5-85)~~( )

**08. Involuntary Transfer.** Due process must be given to any employee subject to an involuntary transfer. (Ref. Rules 010.39 and 200.01.a.). ( )

### **1276. RESIGNATION.**

**01. Notice.** A classified employee may resign at any time. A resignation is effective at the time designated by the employee, without need for written or advance notice, or acceptance of the resignation by the department. (6-11-89)

**02. Rescission And Reinstatement.** Once an employee has submitted a resignation, reinstatement is in the discretion of the department as provided in Rule 1254. The department may but is not required to allow an employee to rescind a resignation prior to its effective date. ~~(6-11-89)~~( )

**03. Resignation In Lieu Of Dismissal.** An employee may resign in lieu of being dismissed for cause. (7-1-93)

### **1287. -- 1298. (RESERVED).**

### **13029. ACTING APPOINTMENT TO A POSITION.**

**01. Conditions For Acting Appointment.** At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his or her own department in an acting capacity whenever: ~~(7-10-88)~~( )

a. The incumbent of the position in the higher classification is on authorized leave of absence; or ~~(7-10-88)~~( )

b. A vacancy exists and there is no departmental ~~layoff~~ register with reemployment preference status (Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate departmental register for the classification. ~~(7-10-88)~~( )

**02. Minimum Qualifications.** To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (4-5-85)

**03. Notification.** Appointing authorities shall notify the administrator of each acting appointment ~~on the prescribed form~~ no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. ~~(2-6-92)~~( )

**04. Effective Date.** The effective date of each ~~active~~ acting appointment may be retroactive to the beginning of the pay period during which approval is granted. ~~(3-30-01)~~( )

### **1340. LIMITATION ON LENGTH OF APPOINTMENT.**

~~Such~~ Acting appointments shall be limited to the period of time necessary to fill the vacancy pursuant to procedures

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prescribed in these rules but in no case shall continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. (4-5-85)(\_\_\_\_)

#### **1321. SALARY.**

For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. (4-5-85)(\_\_\_\_)

#### **1332. EXPIRATION OF APPOINTMENT.**

**01. Return Of Incumbent.** When the incumbent of the classification returns from leave of absence, or the vacant position is filled, the acting appointment shall expire. The acting appointee shall be returned to the class, the pay grade and rate held immediately preceding the acting appointment. (7-1-94)(\_\_\_\_)

**02. Failure Of Incumbent To Return.** Should the employee on leave of absence separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 1340. (4-5-85)(\_\_\_\_)

~~**03. Probationary Period Upon Promotion.** The time served in an acting appointment immediately preceding an employee's promotion from an eligibility register to the class shall be credited to the employee's probationary period. (Ref. Rule 154) (4-5-85)~~

#### **1343. -- 139. (RESERVED).**

#### **140. REDUCTION IN FORCE.**

**01. Conditions For Layoff.** An appointing authority may lay off an employee whenever ~~it is~~ necessary ~~because of~~ due to: (\_\_\_\_)

**a.** ~~§~~Shortage of funds or work; (\_\_\_\_)

**b.** ~~•~~Reorganization; (\_\_\_\_)

**c.** The end of a limited service appointment; (\_\_\_\_)

**d.** An employee's failure to complete interagency promotional probation when demotion options are not available; or (\_\_\_\_)

**e.** ~~•~~The abolishment of one (1) or more positions (ref. Rule 066). ~~A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02.~~ Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not ~~abrogate~~ do away with an employee's right ~~of grievance~~ to problem solving, review, or appeal if the layoff is in fact a dismissal. (4-5-85)(\_\_\_\_)

**02. Assessment For Adverse Impact.** Layoff decisions must not be based on race, color, national origin, gender, age, religion, disability or political affiliation. In planning and conducting a reduction in force, the appointing authority shall consider the effect of decisions, such as establishment of layoff units and selection of classifications containing positions to be abolished, on the composition of the work force of the agency. If layoff units and/or exclusions are established, adverse impact will be assessed as recognized in state and federal laws, rules and guidelines. The appointing authority shall take appropriate action consistent with state and federal laws, and rules and guidelines governing adverse impact. (\_\_\_\_)

~~**043. Layoff By Position.** Reduction in force shall be by classification of position regardless of class of incumbent.~~ (4-5-85)(\_\_\_\_)

**a.** Reduction in force may be limited to or specifically exclude employees appointed under selective

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certification, (Rule 1132) for bona fide occupational qualifications, or appointed ~~under specific options or to a classification with~~ minimum qualification specialties ~~in a class~~. Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (7-1-93)( )

b. ~~Reduction in force for employees in limited service appointments shall be limited to the program or function for which the appointments were made.~~ An appointing authority may petition the administrator to exclude an individual or individuals from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale and be approved in advance by the administrator. (4-5-85)( )

c. ~~Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122).~~ Limited-service appointments are defined by the project, the program, or function for which the appointments were made. If a reduction in force relates to a limited service project conclusion and agreement, the limited service appointee may not displace other employees with fewer retention points. (Ref. Rule 120). Other permanent employees may not displace limited service appointees in a reduction in force. (12-10-90)( )

**024. Layoff Unit.** Reduction in force shall be department-wide or by organizational unit determined by the appointing ~~authority provided the organizational unit designation for layoff purposes is made by the appointing~~ authority and approved by the administrator before the effective date of the layoff. (4-5-85)( )

**05. Reduction Of Hours Worked.** An involuntary reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the department or approved organizational unit for a limited period of time, i.e. furlough. ( )

**06. Downward Reclass.** A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff. (Ref Rule 067). ( )

#### **~~03141.~~ CALCULATION OF RETENTION POINTS.**

There shall be ~~competition among~~ an evaluation of all employees in the classification in the department or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and credited state service. Qualified war veterans are given preference through additional retention points. (Ref. Rule 210141.05) as follows:

#### **01. For Performance Evaluations Conducted Before March 31, 2001:**

Performance Level	Retention Points Earned Per Hour of Credited State Service
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

(7-1-87)( )

**02. For Performance Evaluations Conducted After March 31, 2001.** the appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

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<u>Does Not Achieve Performance Standards Overall Rating</u>	<u>No Points</u>
<u>Achieves Performance Standards (APS) with narratives describing satisfactory performance in some, but not all, required core areas.</u>	<u>.025</u>
<u>APS rating with no or minimal documentation.</u>	<u>.075</u>
<u>APS rating with narratives describing competent performance.</u>	<u>.100</u>
<u>APS rating with narratives describing performance that exceeds expectations.</u>	<u>.125</u>
<u>APS rating with narratives describing outstanding performance.</u>	<u>.150</u>

( )

**03. No Performance Evaluation On File For A Twelve-Month Period.** All credited state service before March 31, 2001, for which there is no performance evaluation shall receive .050 points per hour. All credited state service after March 31, 2001 for which there is no performance evaluation shall receive .075 points per hour.

(4-5-85)( )

**04. Calculation Of Retention Points Since Last Evaluation.** The most recent performance evaluation should be used as the multiplier when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points shall be calculated in conformance with Rule 141.03.

( )

**05. Qualified War Veterans Preference.** War veterans as defined in Chapter 5, Title 65, Idaho Code, shall receive an bonus of additional three four hundred twelve sixty-eight (312468) retention points which is equivalent to three (3) years of satisfactory service.

(4-5-85)( )

~~e. No points shall be calculated for the last three (3) months prior to a reduction in force.~~ (4-5-85)

**04. Audit Of Retention Points.** Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty five (35) calendar days from the date of the auditor's notification to the affected parties.

(7-1-87)

### **142. CREDITED STATE SERVICE.**

Eligible credited state service for purposes of Rule 140 is defined as follows:

(4-5-85)

**01. Service Prior To State Personnel System.** All credited state service prior to the establishment of classified service, Chapter 53, Title 67, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service)

(4-5-85)

**02. Classified Service.** All classified credited state service since the establishment of classified service.

(4-5-85)

**03. Nonclassified Service.** All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040.

(7-1-87)

**04. Leave Of Absence From Classified Service.** All credited state service, in a leave of absence from classified service, that a classified employee serves in a nonclassified position. Limitations are contained in Rules 250.02.a. and 125.01.a.

(7-1-87)

### **143. AUDIT OF RETENTION POINTS.**

Each employee shall be entitled to an audit of retention points by an independent auditor designated by the

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administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. ( )

#### **1424. ~~PROCEDURE~~ REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.**

**01. Identification Of Classifications.** The appointing authority shall identify the classification(es) of positions to be ~~affected by layoff and the organizational unit if applicable under Rule 140.02~~ eliminated. (4-5-85)( )

**02. Calculation Of Retention Points.** Retention points shall be calculated for all employees assigned to the classification of position including those serving in underfill positions (Ref. Rule 010.60 or acting appointments (Ref. Rule 130). ~~Employees on approved leave of absence without pay shall not be included (Ref. Rule 142.04).~~ Retention points need not be calculated where layoff involves a single-incumbent class. (7-1-87)( )

**03. Order Of Reduction In Force.** The order of reduction in force shall be by type of appointment held by the employee in the affected classification(es) as follows: first to be laid off are provisional appointees, next the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees shall be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs shall be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention shall be determined in the following sequence: (Ref. Rule 150.02.c.) (3-30-01)( )

a. The employee with the highest ~~overall average performance credit~~ (total retention points ~~divided by total credited state service~~) for the past thirty-six (36) months. (4-5-85)( )

b. Random selection. (4-5-85)

**04. ~~Employee Returning From Leave Of Absence.~~** ~~An employee returning from a leave of absence without pay to a class for which a layoff register exists will be laid off in accordance with these rules if there are employees on the layoff register for the class with more retention points (Ref. Rule 142.02).~~ **Notification To Administrator.** The appointing authority shall provide documentation of the layoff decision-making process to the administrator at least twenty (20) calendar days prior to the effective date, including a list of all employees considered for layoff and the outcome. (7-1-87)( )

**05. Notification ~~Of~~ To Affected Employees.** Each employee affected shall be notified in writing of layoff and ~~reasons therefor~~ the rationale for the decision at least fifteen (15) calendar days prior to the effective date of the layoff. Notification shall include a copy of the departmental layoff procedure and a copy of the computation of retention points when required (Ref. Rule 142.02). (4-5-85)( )

**06. ~~Notification To Administrator.~~** ~~The appointing authority shall give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and shall provide a list of persons affected by the layoff with their retention point calculations and shall indicate which employees will be laid off.~~ (4-5-85)

#### **~~143. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.~~**

~~An employee with permanent status, may, in lieu of layoff, elect voluntary demotion to a class, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted, however, if the result would be to cause the layoff of an employee with permanent status with greater retention points. To exercise the right of voluntary demotion in lieu of layoff, the employee must notify the appointing authority in writing of such election no later than five (5) working days after receiving notice of layoff.~~ (7-1-94)

#### **1445. PLACEMENT ON ~~LAYOFF~~ REGISTER WITH REEMPLOYMENT PREFERENCE.**

An employee ~~who elects a voluntary demotion in lieu of layoff or an employee~~ laid off from state service, ~~under these rules or who chooses a voluntary demotion in lieu of a layoff,~~ shall be placed on a ~~layoff~~ register (~~Rule 101.01~~) in accordance with Rule 146 with reemployment preference in unranked order for ~~one~~ eighteen (18) ~~year~~ months from the effective date of ~~demotion or~~ layoff, or until the employee or former employee declines a total of three (3)



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separate offers of reemployment without good cause, whichever comes first. (Rule 104.051.n.) ~~(3-30-01)~~( )

#### **1456. USE OF ~~LAYOFF~~ REGISTERS WITH REEMPLOYMENT PREFERENCE REQUIREMENTS.**

##### **01. ~~Offer Of~~ Priority For Reemployment By Agency That Conducted The Layoff.** ( )

**a.** ~~An~~ The employee ~~on a layoff register~~ who has been laid off, or officially notified of a pending layoff date (Ref. Rule 144.05) shall be offered reemployment to a position in the classification from which laid off, before any other person may be promoted, transferred, reinstated, reclassified or appointed, including acting appointment, to such classification by ~~the~~ an appointing authority ~~enforcing the layoff of that department or agency.~~ Appointing authorities ~~in other departments are only required to offer an interview.~~ (Ref. Rule 101.01) may reassign or transfer individuals who are in the same classification within their department. (Ref. Rule 125.04 and 125.08)

~~(3-30-01)~~( )

**b.** When attempting to fill vacancies for a classification where a lay off occurred, the department or agency shall provide an opportunity to interview and shall make their hiring selection among the individuals from their agency laid off from the classification, including those separated from state service under Rule 150.02 and those that took a voluntary demotion in lieu of layoff. ( )

**c.** Individuals being returned to the classification from which they were laid off will be reinstated with the same salary and their sick leave balance restored. If the pay minimum has increased, see Rule 072.04. ( )

**02. ~~Optional Return To Layoff Register.~~** ~~When an employee is appointed from a layoff register, but finds the position unsatisfactory, they may resign, and request recertification to the layoff register for the remainder of their twelve (12) month eligibility period.~~ **Consideration For Hire By Other Agencies.** Individuals who have been laid off must be offered the opportunity to interview before other agencies consider open competitive register candidates. Internal agency candidates for promotional opportunities are normally considered before outside recruitment occurs, including other agencies' laid off candidates. ~~(3-30-01)~~( )

**03. ~~Employment By Other Agency.~~** Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ( )

**04. ~~Return To Register.~~** If an individual finds another agency's position unsatisfactory or does not meet performance expectations during a voluntary probation period, he or she may be placed back on a register for the remainder of their eighteen (18) month time frame. Individuals appointed from a register to a position other than the classification from which laid off, will remain on the register for the classification from which laid off for the remainder of the eighteen (18) month period if otherwise eligible. ( )

#### **146. ~~APPLICATION OF REEMPLOYMENT PREFERENCE.~~**

**01. ~~Reemployment Rights.~~** ~~Reemployment preference from layoff registers shall be determined by retention points in rank order from highest to lowest within each of the following categories of employees (salary treatment is covered by Rule 072.03):~~ (4-5-85)

**a.** ~~Employees with permanent status in the class.~~ (4-5-85)

**b.** ~~Promotional probationary employees who have permanent status in a class allocated to a lower pay grade.~~ (4-5-85)

**c.** ~~Probationary employees without permanent status in any class.~~ (4-5-85)

**02. ~~Exception.~~** ~~Employees who have neither probationary nor permanent status in a class affected by a layoff, and employees serving in limited service appointments have no preference for reemployment, and their names shall not appear on a layoff register.~~ (7-1-87)

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#### **147. INTERVIEWS FOR PROSPECTIVE LAYOFFS.**

Any ~~Employees~~ who has been notified or identified as likely to be affected by a layoff ~~shall~~ may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 146.01.a.) ~~Departments attempting to fill such vacancies~~ All agencies, shall offer an interview to these individuals when attempting to fill such vacancies.

(3-30-01)(\_\_\_\_)

#### **148. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.**

An employee with permanent status, may, in lieu of layoff, elect voluntary demotion to a classification within their layoff unit, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted, however, if the result would be to cause the layoff of an employee with permanent status with greater retention points.

(\_\_\_\_)

**01. Eligibility.** Employee must meet the classification's current minimum qualifications and any minimum qualification specialties required. Limited service appointees are not eligible.

(\_\_\_\_)

**02. Acceptance.** To exercise the right of voluntary demotion in lieu of layoff, the employee must notify the appointing authority in writing of such election no later than three (3) working days after written notification of the pending layoff.

(\_\_\_\_)

~~148.~~—149. (RESERVED).

#### **150. PROBATIONARY PERIODS.**

**01. Probationary Period Required.** Except as provided in Rule 040, every appointment and promotion to a classified position shall be probationary, or in the absence of adequate registers, provisional.

(7-1-87)

**02. Types Of Probationary Periods.** The probationary period serves as a working test period to provide the department an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods:

(3-30-01)

**a.** Entrance probation is the probationary service required of an employee at the time of his or her original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who shall serve two thousand eighty (2,080) hours.

(3-30-01)

**b.** Promotional probation is the probationary service required when an employee is promoted, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who shall serve two thousand eighty (2,080) hours.

(3-30-01)

**c.** Voluntary probation is the probationary period negotiated between employees seeking inter-agency transfer, voluntary demotion, and/or reinstatement and the hiring authority. The probationary period is negotiable but shall may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. Voluntary probation agreements must be approved by the administrator and kept on file with the Division for the duration of the probationary period.

(3-30-01)(\_\_\_\_)

**03. Extension Of Probationary Period.** Upon petition by an appointing authority that demonstrates good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Petitions must be received by the administrator before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers.

(7-1-94)(\_\_\_\_)

**04. Interruption Of Probationary Period.** The probationary period in any classification must be completed within a single department uninterrupted by resignation, termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated by means other than layoff during the probationary period must begin a new

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probationary period upon reappointment or promotion. ~~The entrance probationary period is not interrupted by a voluntary demotion within a department.~~ (7-1-93)(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **152. ~~UNSATISFACTORY SERVICE SEPARATION DURING PROBATION.~~**

**01. Notification.** ~~Should~~ If a probationary employee ~~fail to serve satisfactorily~~ does not meet expectations, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(j), Idaho Code and Rule 210.04) (7-1-87)(\_\_\_\_)

**02. During Entrance And Voluntary Probation.** (3-30-01)

**a.** An employee who ~~fails to serve satisfactorily~~ does not meet expectations during the entrance or voluntary probation shall first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (3-30-01)(\_\_\_\_)

~~**03. During Promotional Probation.** If an employee on promotional probation fails to serve satisfactorily in the position to which he or she has been promoted, the employee shall be returned to a position in the class in which he or she holds permanent status or to a classification allocated to the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. As with all employees, a violation of Rule 190 may result in disciplinary action up to and including dismissal.~~ (3-30-01)

#### **153. ~~UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.~~**

**01. Disciplinary Action.** Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. (\_\_\_\_)

**02. Intra-Agency.** If an employee, on promotional probation, does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. (\_\_\_\_)

**03. Inter-Agency.** (\_\_\_\_)

**a.** The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. (\_\_\_\_)

**b.** If no position is available for the voluntary demotion option, the employee may be laid off and may: (\_\_\_\_)

**i.** Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or (\_\_\_\_)

**ii.** Request their name be placed on a register with reemployment preference rights for the classification in the agency where they last held permanent status. (\_\_\_\_)

#### **1534. FAILURE TO PROVIDE PERFORMANCE EVALUATION.**

If the appointing authority fails to provide a performance evaluation as required in Rules 151 ~~and 152~~, the employee

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shall be considered to have satisfactorily completed the probationary period and shall be certified to permanent status as provided by Rule 151, unless the probationary period has been extended by the administrator. (Ref. Rule 150.03) (7-1-87)(\_\_\_\_)

#### **~~154. PROVISIONAL AND ACTING APPOINTMENTS.~~**

~~Satisfactory service in provisional and acting appointments shall be credited toward the probationary period required by Rule 150.01 if the employee is subsequently appointed or promoted to the class in which he or she is serving the provisional or acting appointment. (Ref. Rules 120.05.d. and 133.03) (4-5-85)~~

**155. -- 1598. (RESERVED).**

#### **~~16059. STATUS AND TENURE.~~**

**01. Probationary Promotions.** Employees serving a promotional probationary period shall have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. (Ref. Rules 151, 152.03, and 153) (7-1-87)(\_\_\_\_)

**02. Tenure Of Employment.** All employment in the state classified service shall be without definite term except where the term may be specified by law, or under conditions of a limited-service appointment. (Ref. Rule 1270) (4-5-85)(\_\_\_\_)

**1640. -- 1698. (RESERVED).**

#### **~~17069. PROMOTIONS.~~**

**01. Use Of Promotional Registers.** (7-1-93)

**a.** Preference for Promotion. Whenever practical, a vacancy in a classified position shall be filled by the promotion of an employee in the department in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code) (3-30-01)

**b.** Exception. An appointing authority may request that a position be filled from a statewide promotional register (Rule 101.03) or an open-competitive register (Rule 101.04) whenever he or she determines that such an appointment will best serve the interests of the department. (Ref. Rule 112) (4-5-85)(\_\_\_\_)

**c.** Layoff Departmental Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is a departmental layoff register with reemployment preference status (Rule 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (3-30-01)(\_\_\_\_)

**02. Interdepartmental Promotions.** All interdepartmental promotions shall be made using statewide promotional registers (Rule 101.03) (7-1-87)

**03. Eligibility For Promotion.** Promotional ~~candidates~~ appointees must have permanent status (ref. Rule 16059) and must meet the minimum qualifications of the promotional classification. (4-5-85)(\_\_\_\_)

**1740. -- 1798. (RESERVED).**

#### **~~18079. DEMOTIONS.~~**

Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. (7-1-87)(\_\_\_\_)

#### **~~1840. NONDISCIPLINARY DEMOTION REQUIRED.~~**

An appointing authority shall make a nondisciplinary demotion when: (4-5-85)

**01. ~~Downward Reclassification.~~** The position occupied by an employee is reclassified to a

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classification allocated to a lower pay grade in accordance with assigned responsibilities pursuant to Rule 067.

(4-5-85)( )

~~02. Voluntary Demotion In Lieu Of Layoff. An employee with permanent status elects demotion in lieu of layoff as provided by Rule 143.~~ (4-5-85)

#### 1821. NONDISCIPLINARY DEMOTION OPTIONAL.

An appointing authority may make a ~~nondisciplinary~~ voluntary demotion when:

(4-5-85)

~~01. Voluntary.~~ Requested by an employee and approved by the appointing authority. (4-5-85)( )

~~02. Displaced In Layoff. An employee is displaced by another employee entitled to the position pursuant to this Rule Section.~~ (7-1-87)

#### 1832. DISCIPLINARY DEMOTION.

An appointing authority may make a disciplinary demotion for causes enumerated in Rule 190 which are not sufficiently severe to warrant dismissal. (7-1-87)

#### ~~184. NOTIFICATION.~~

~~Except for Rule 182.01, an appointing authority shall give written notice of demotion concurrently to the employee and the administrator at least fifteen (15) calendar days prior to the effective date and shall set forth the specific reasons for the demotion.~~ (4-5-85)

#### 1854. -- 189. (RESERVED).

#### 190. DISCIPLINARY ACTIONS.

~~01. Cause For Disciplinary Actions Or Separation From State Service. Disciplinary actions, including d~~Dismissal, suspension, demotion, or reduction in pay, may ~~be taken against any employee in the state classified service~~ occur for any of the following causes ~~which occur~~ during the employee's employment: (7-1-93)( )

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the department or the Division of Human Resources and Idaho Personnel Commission. (7-1-87)( )

b. Inefficiency, incompetency, or negligence in performing duties. (4-5-85)

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (Ref. Rule 010.4756) (3-30-01)( )

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the department. (4-5-85)

f. Intoxication on duty. (4-5-85)

g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)

h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)

i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)

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- j. Acceptance of gifts in exchange for influence or favors given in an official capacity. (4-5-85)
- k. Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)
- l. Habitual improper use of sick leave. (4-5-85)
- m. Unauthorized disclosure of confidential information from official records. (4-5-85)
- n. Absence without leave. (4-5-85)
- o. Misstatement or deception in application for employment. (4-5-85)
- p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)
- q. Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

**02. Suspension For Investigation.** An appointing authority may suspend with pay an employee for investigation of disciplinary causes enumerated above. Each suspension for investigation shall be superseded by reinstatement to duty, dismissal or disciplinary suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. (3-30-01)

**03. Disciplinary Suspension.** An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status shall be subject to appeal by the employee to the ~~Personnel~~ Commission. (~~4-5-85~~)( )

**04. Suspension On Felony Charges.** An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled shall be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (7-1-87)

**05. Notice To Administrator.** Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he or she shall notify the employee and the administrator concurrently in writing; and shall set forth the specific rule(s) violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule 190.02) may be made without prior notice to the employee; in this case, the appointing authority shall notify the administrator as soon as practical. (7-1-87)

**191. -- 199. (RESERVED).**

### **200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.**

#### **01. Overview Of Procedures. (3-30-01)**

a. The due process procedure deals with the disciplinary matters set forth in Idaho Code Section 67-5315(2), dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the department. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions are appealable in accordance with Rule 201. (3-30-01)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions are not appealable to the ~~Personnel~~ Commission except as authorized by Section 67-5316, Idaho Code. (~~3-30-01~~)( )

#### **02. Establishment Of Departmental Problem-Solving And Due Process Procedures. Each**

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participating department shall maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and this Section. (7-1-98)

**03. Eligibility And Time For Filing Under Problem-Solving Procedure.** Any classified employee with permanent, provisional or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee shall file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the department is strongly encouraged to waive any time limits. (Ref. Rule 200.053). The time limit for filing shall be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The department may accept a filing that is or appears to be filed late. Department policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. ~~(3-30-01)~~(\_\_\_\_)

**04. Elements Of The Problem-Solving Procedure.** The procedure shall contain a statement from the department head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement shall also provide a means whereby department representatives can obtain timely authority, if needed, to resolve the matter. The procedure shall require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure shall provide for such additional levels of management as are appropriate in the department. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. Timelines shall not exceed five (5) working days between each step. The procedure shall also inform the employee that he or she is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative shall be expressly prohibited. This procedure shall not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1), Idaho Code; Rules 150 ~~through and 154~~3). ~~(3-30-01)~~(\_\_\_\_)

**05. Filings Alleging Sexual Harassment Or Other Illegal Discrimination.** Each department's problem-solving procedure shall provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure shall expressly prohibit sexual harassment and discrimination. Employees shall be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure shall designate a specific person or persons to receive and investigate such filings, and shall require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (7-1-98)

**06. Elements Of Due Process Procedure.** A department must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, a department must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice shall be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond shall not occur later than ten (10) working days after the employee has received notice, unless both the employee and department agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, shall make and implement the department's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office, unless both the employee and department agree otherwise in writing. The procedure shall inform the employee of his or her right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code; Rule 150 through Rule 1543). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision shall also be sent to the administrator concurrently. ~~(3-30-01)~~(\_\_\_\_)

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**07. Notification.** A copy of the approved problem-solving and due process procedures shall be furnished and explained to each employee with permanent, provisional or entrance probationary status in the department concerned. (7-1-98)

**08. Assistance To Departments.** The administrator shall assist departments whenever requested in the development or revision of their departmental problem-solving and due process procedures. (7-1-98)

#### **201. APPEAL PROCEDURE.**

**01. Idaho Rules Of Administrative Procedure.** In addition to the following rules on appeals and petitions for review, the "Idaho Rules of Administrative Procedure of the Attorney General" on contested cases, IDAPA 04.11.01.000 et seq., apply with the following exceptions, which are inconsistent with the Commission's statute or practice: IDAPA 04.11.01.055, ~~151-05 202~~, 240, 250, 270.01, 280, 300, 302, 651, 720, 730, 740, 790, 791, 821.02, and 860. Petitions for rulemaking and declaratory rulings are addressed in Rules 270 and 271 of these rules. (~~3-30-01~~)( )

**02. Filing Of Appeal And Appearances.** Every appeal filed with the Commission shall be written. The appeal shall be filed at the Division of Human Resources which serves as the office of the Commission, and shall state the decision that is being appealed and the action requested of the Commission. The ~~administrator~~ Commission shall serve a copy of the appeal on the respondent and upon the legal counsel for the Commission. Notices of appearance and notices of substitution of counsel need not be filed by Deputy Attorneys General or members of law firms already representing a party in an appeal or petition for review. (~~7-1-87~~)( )

**03. Time For Appeal.** An appeal from a decision of an appointing authority shall be deemed to be timely filed if received ~~or postmarked at the office of the Commission~~ within thirty-five (35) calendar days after completion of the departmental due process procedure. Personal delivery or deposit in the United States mail, postage prepaid, of a written notification to the affected employee of the appointing authority's decision shall constitute completion of the departmental due process procedure. An appeal of a decision or action of the administrator or staff must be filed at the office of the Commission within thirty-five (35) calendar days of personal delivery of notice of the decision or action, deposit of the notice in the United States mail, postage prepaid, or deposit of the notice in Statehouse mail. (~~3-30-01~~)( )

**04. Non-Jurisdictional Appeals.** Appeals which are non-jurisdictional may be dismissed without motion by the hearing officer, the Chair of the Commission, or his or her designee. If a hearing officer orders such a dismissal, the dismissal may be appealed to the Commission as a petition for review pursuant to Rule 202.01. If the Chair of the Commission orders such a dismissal, it constitutes the final order of the Commission and may be appealed pursuant to Sections 67-5317(3) and 67-5318, Idaho Code. ( )

**045. Setting Of Hearing.** Within ~~thirty~~ fifteen (30)15 days after receiving the appeal from the Commission, the hearing officer shall consult with the parties to set a mutually agreeable date for hearing. The hearing officer may thereafter postpone or continue the hearing for good cause. (~~7-1-87~~)( )

**056. Filing Of Documents.** Once an appeal is referred to the hearing officer, all documents relating thereto shall be filed directly with the hearing officer during the pendency of the appeal. Copies of all documents submitted shall be provided simultaneously to opposing counsel and unrepresented parties. (7-1-87)

**067. Burden Of Proof.** In disciplinary actions, the appointing authority has the burden of proving cause for the discipline by a preponderance of the evidence. In all other actions, the appellant has the burden of proof by a preponderance of the evidence. (7-1-87)

**078. Open Hearing.** Every hearing shall be public, unless the hearing officer closes the hearing for good cause. Individual parties may ~~be represented by~~ themselves (pro se) or be represented by an attorney. (~~7-1-87~~)( )

**089. Protective Orders.** The hearing officer may issue protective orders limiting access to information obtained in the course of a hearing. (7-1-93)



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**0910. Decision Of Hearing Officer.** The hearing officer shall issue a decision in the form of a preliminary order ~~pursuant to Section 67-5245, Idaho Code.~~ The preliminary order shall explain the right to file a petition for review under Section 67-5317, Idaho Code. The preliminary order, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings shall be filed at the office of the Commission. A copy of the hearing officer's decision shall be promptly sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. (7-1-94)(\_\_\_\_)

**101. Procedure For Award Of Attorney Fees And Costs.** ~~If the hearing officer finds in favor of the employee in whole or in part, the hearing officer shall make a finding as to whether or not the state agency acted without a reasonable basis in fact or law. As part of his preliminary order, the hearing officer shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the employee hearing officer finds a prevailing party is entitled to statutory attorney fees and costs, counsel for the employee the prevailing party shall file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum shall be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision or no attorney fees and costs shall be awarded. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the memorandum of costs and supporting affidavit. The hearing officer shall conduct a hearing on the award of attorney fees and costs within ten (10) days of receiving any objections to the award. If no objections are timely filed with the hearing officer, or if the parties stipulate to have the matter decided on the briefs, no hearing shall be required. The state agency shall then have ten (10) working days to file objections.~~ The hearing officer shall determine the amount of the award and shall make written findings as to the basis and reasons for the award within ten (10) days after the hearing on the award of attorney fees and costs. If no hearing is required, the hearing officer shall issue his/her decision on the award of attorney fees and costs no later than thirty (30) days after receipt of the prevailing party's memorandum of costs and supporting affidavit. A copy of the memorandum of costs shall be served on the parties and filed with the Commission. (7-1-94)(\_\_\_\_)

**142. Factors Considered In Award Of Attorney Fees And Costs.** The following factors shall be considered in the determination of an award of attorney fees and costs: (12-10-90)

- a. The time and labor required; (12-10-90)
- b. The experience and ability of the attorney; (12-10-90)
- c. The prevailing charges for like work; (12-10-90)
- d. The amount involved and the results obtained; (12-10-90)
- e. Awards in similar cases; and (12-10-90)
- f. Any other factor that appears pertinent to the award. (12-10-90)

### **202. PETITION FOR REVIEW PROCEDURE.**

**01. Filing Of Petition For Review.** A petition for review shall be ~~deemed to be timely~~ filed ~~if received or postmarked~~ at the office of the Commission within thirty-five (35) days of the hearing officer's decision issued pursuant to Rule 201.10. The petition shall be in writing and ~~filed at the office of the Commission. The petition for review~~ shall specifically cite the alleged errors of fact or law made by the hearing officer. (7-1-87)(\_\_\_\_)

**02. Stay Of Hearing Officer's Decision.** Upon the filing of the petition for review, the jurisdiction of the hearing officer in the matter is ended except for resolving post-hearing motions and awarding attorney fees and costs. The hearing officer's decision and any orders entered pursuant to Rules 201.0910 and 201.101 shall be automatically stayed. (12-10-90)(\_\_\_\_)

**03. Nature Of Hearing.** The hearing of the Commission on a petition for review shall be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders. Written arguments or briefs and motions regarding the petition for review shall be allowed under such terms as the Commission may direct in its notice of hearing, which shall be issued at least twenty-

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eight (28) days prior to the date set for hearing.

(12-10-90)

**04. Transcript.** If the petition for review involves questions of fact, the appellant shall provide a full transcript of the proceedings before the hearing officer for the Commission to review. The respondent shall pay for an additional copy of the transcript for respondent's own use. (7-1-87)

**05. Requests For Postponement And Other Motions.** (7-1-93)

**a.** Except in emergencies, a request for postponement shall be filed in writing by a party or representative not later than seven (7) days before the scheduled hearing. The ~~administrator~~ Chair of the Commission, or his or her designee, may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. (7-1-87)(\_\_\_\_)

**b.** Motions to dismiss for lack of jurisdiction shall be decided by the Commission. ~~Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted.~~ All other motions shall be considered by the Chair of the Commission or at the Chair's discretion may be referred by the administrator to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the ~~administrator~~ Chair or by counsel to the Commission. (7-1-94)(\_\_\_\_)

**06. Decision On Petition For Review.** The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. ~~Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted.~~ The Commission shall file the original copy of its decision with the record of the proceedings and mail copies to the parties ~~immediately~~ promptly. (7-1-93)(\_\_\_\_)

**07. Record Of The Proceedings.** A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings. (7-1-87)

**08. Attorney Fees And Costs In A Petition For Review.** In its decision on petition for review, the Commission shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the Commission finds the prevailing party, if any, is entitled to attorney fees and costs, the prevailing party shall file a request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.101, shall be filed with the Commission not later than ten (10) working days after receipt of the Commission's decision. The state agency shall then have ten (10) working days to file objections to the award. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the request for attorney fees and costs. The Commission shall make findings as to the entitlement to attorney fees and costs, and determine the amount of the award, if any, in its decision on the petition for review, taking into account the factors defined in Rule 201.142. (7-1-94)(\_\_\_\_)

**09. Protective Orders.** The Commission may issue protective orders limiting access to information in the record. (7-1-93)

### **203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.**

The Division of Human Resources shall take prompt action to investigate complaints received from federal agencies alleging violation of federal and/or state employment laws. The appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. (\_\_\_\_)

**01- Referral.** ~~Upon the referral of a complaint based on alleged discrimination by a department or employee from the appropriate federal agency to the department, a departmental procedure established for this purpose and an appeal to the hearing officer of the Idaho Personnel Commission shall constitute the "applicable internal review procedure" referred to in the applicable federal regulations. Except as modified herein, the procedures, remedies, and process under Rule 200 remain intact.~~ (3-30-01)

**02- Departmental Procedure.** ~~The director of the department, immediately upon receipt of the complaint, shall notify the complainant of his or her right to use the procedure set forth herein to resolve the~~

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~~complaint. A panel or designated person shall take testimony or written evidence regarding the complaint as is necessary to fully discuss the circumstances surrounding the alleged act of discrimination. A written report in sufficient detail to allow subsequent reviewers to understand the allegations shall be compiled from the testimony and evidence adduced at the hearing. The person or panel may make such recommendations to the director of the department as it sees fit. The department director shall receive and consider the report and issue a decision based upon it. If the resolution is satisfactory to all parties, the federal agency will be notified the complaint has been resolved and forward a copy of the decision and acquiescence of the parties to it.~~ (7-1-87)

**03. ~~Petition To Hearing Officer.~~** (7-1-93)

~~a. If the decision of the director is unacceptable to the complainant, he or she may petition for review by the hearing officer of the Idaho Personnel Commission. The petition shall state the grounds for disagreement with the director's decision and be accompanied by a copy of the report and director's decision.~~ (8-1-81)

~~b. Oral argument on behalf of the respective parties may be offered if it is requested. The decision of the hearing officer shall be the final administrative review under the "applicable internal review procedure". If the resolution is satisfactory to all parties, the appropriate federal agency shall be notified. If the resolution is unsatisfactory, the complaint shall be referred back to the originating federal agency for resolution.~~ (6-30-78)

~~04. **Time.** In no event shall this process take more than sixty (60) days, except upon agreement between the parties and appropriate federal agency.~~ (6-30-78)

**204. -- 209. (RESERVED).**

**210. PERFORMANCE EVALUATIONS.**

**01. Performance Evaluations.** Each department shall adopt and maintain a system of employee performance evaluations provided it meets the basic objectives of the state's performance evaluation system as approved by the administrator. (3-30-01)

**02. Approval Of Form.** The Division of Human Resources' staff shall make available a standard format for this purpose, ~~but a~~ An appointing authority may utilize another form provided it meets the basic ~~objectives of this rule~~ performance criteria and ratings and is approved by the administrator. (4-5-85)(\_\_\_\_)

**03. Purpose.** The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established ~~work standards~~ expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All ~~ratings~~ appraisals shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the ~~rating~~ evaluation contents. (4-5-85)(\_\_\_\_)

**04. Use Of Evaluations.** Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases and bonuses (Ref. Section 67-5309C(b), Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule 151). Other uses of performance evaluations are optional with the appointing authority. (3-30-01)

**05. Evaluation Schedule.** All classified employees shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two thousand eighty (2,080) hours of credited state service thereafter. (Ref. Section 67-5309C(b)(ii), Idaho Code.) Part time employees shall be evaluated on an annual basis. (3-30-01)

**06. Retention Of Evaluation.** A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished the employee. ~~A copy~~ The performance rating shall be ~~provided~~ transmitted to the administrator, ~~with or without~~ Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents should be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (7-1-94)(\_\_\_\_)

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**07. Supervisors' Requirements.** Supervisors are required to manage performance on a consistent basis including required performance evaluations on all employees under their direct supervision. (\_\_\_\_)

**211. -- 219. (RESERVED).**

#### **220. RECORDS.**

**01. Employee Service Records.** (7-1-93)

**a.** For each employee in classified service, the Division of Human Resources' staff shall maintain a service record which shall include ~~a copy of~~ all personnel transactions pertinent to the employee's employment history. (~~4-5-85~~)(\_\_\_\_)

**b.** Service records or a facsimile thereof for classified employees shall be maintained permanently by the administrator. (3-30-01)

**c.** Any employee may at all reasonable times during business hours review his or her service record maintained in the Division of Human Resources or maintained in any department. Except for material used to screen and test for employment, all information maintained in an employee's service record shall be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Section 9-342, Idaho Code. (3-30-01)

**02. Administrative Records.** The administrator shall permanently maintain a record ~~or a microfilm facsimile~~ of the proceedings of the ~~Personnel~~ Commission and a record of all hearings of appeals. (~~3-30-01~~)(\_\_\_\_)

**03. Employee Personnel Action Documents.** The appointing authority shall furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations. (3-30-01)

**04. Transfers, Reemployment And Promotions Between Departments.** When an employee seeks a transfer, reemployment, or promotion between departments or agencies, the appointing authority of the hiring department or agency, or designee, shall be entitled to examine the employee's service record and current agencies performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (~~3-30-01~~)(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **240. SICK LEAVE.**

**01. Eligibility.** Sick leave shall be earned in accordance with Section 67-5333, Idaho Code. Sick leave shall only be taken in pay periods subsequent to being earned. (3-30-01)

**02. Interdepartmental Transfer.** An employee who is transferred from one (1) state department to another shall be credited by the receiving department with the amount of sick leave accrued at the time of transfer. (3-30-01)

**03. Reasons For Use.** Sick leave shall only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (~~7-1-96~~)(\_\_\_\_)

**04. Medical, Dental, Or Optical Appointments Leave (MDA).** Employees are allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or

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optical examination or treatment. Occasional appointments are those which are traditionally considered to be preventative, wellness related, or diagnostic. Ongoing treatment for physical or mental illness is not covered by MDA. Use of this benefit may be limited by the appointing authority on a case by case basis where frequency of use is impeding organizational effectiveness or misuse is suspected. If more than two (2) hours are needed for appointments additional time may be charged to sick leave. ~~(3-30-01)~~( )

**05. Serious Medical Conditions.** Sick leave may be used in conjunction with Family and Medical Leave. (Ref. Rule 242) (3-30-01)

**06. Notification.** It is the responsibility of the employee to notify his or her supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (4-5-85)

**07. Donated Leave.** Vacation leave may be transferred to another employee for the purposes of sick leave in accordance with Section 67-5335(7), Idaho Code. Such transfers are to be made from employee to employee. Vacation leave is retained by the donating party until it is converted to sick leave in the receiving employee's account. ( )

**08. Sick Leave Abuse.** A predictable and reliable level of attendance is an essential function of almost all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. (Rule 190.01.k. and 190.01.l). When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made. (Ref. Section 67-5333, Idaho Code) ( )

#### **241. WORKERS COMPENSATION AND DISABILITY.**

**01. Use Of Leave In A Workers Compensation Claim.** In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

**02. Layoff After Six Months' Disability.** If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant unless precluded by federal law. (Ref. Rule 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. ~~(3-30-01)~~( )

**a.** The disabled employee's name ~~retention points need not be calculated unless there are other employees on the~~ shall be placed on the departmental layoff ~~register in the same class~~ list. The employee shall be entitled to reemployment preference pursuant to Rules 145 and 146 and reinstatement privileges provided under Rule 1254 when released by his or her physician to return to work. ~~(12-10-90)~~( )

**b.** The disabled employee's name shall be certified to a ~~layoff~~ register with reemployment preference when the administrator has been notified by the physician that the employee is able to return to work. Conditional releases will be considered in accordance with the Americans with Disabilities Act. ~~(3-30-01)~~( )

#### **242. FAMILY AND MEDICAL LEAVE.**

**01. Applicability.** The provisions of the federal Family and Medical Leave Act (FMLA) shall apply

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without regard to the exclusion for worksites employing less than fifty (50) employees in a seventy-five (75) mile area, and without the limitation on reinstatement of the highest-paid employees. (Ref. 29 U.S.C. 2601 et seq.). The State is one (1) employer for the purposes of FMLA. For consistency, the administrator shall publish statewide guidance on FMLA policies. (7-1-94)(\_\_\_\_)

**02. Return To Work Release.** An appointing authority may request a return to work release if, due to the nature of the health condition and the job: (3-30-01)

a. Light or limited duty work or other accommodation is requested; or (7-1-94)(\_\_\_\_)

b. The agency, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others. (7-1-94)

### **243. MATERNITY AND PATERNITY LEAVE.**

**01. Use Of Sick Leave.** Disabilities caused or contributed to by pregnancy, child birth or related medical conditions are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (3-30-01)(\_\_\_\_)

**02. Determination Of Disability Period.** The employee's physician shall be considered the ~~sole~~ primary authority in determining the disability period insofar as compensable sick leave is concerned. (4-5-85)(\_\_\_\_)

**03. Additional Time Off.** Maternity and paternity leave preceding and following the time that the ~~employee~~ person is disabled shall be leave without pay unless the employee elects to use accrued vacation leave, earned administrative leave or compensatory time off for overtime. (3-30-01)(\_\_\_\_)

**04. Discrimination Prohibited.** Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-30-01)

**05. Adoption and Foster Care.** Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Rule 242) (3-30-01)

### **244. SEPARATION UPON FAILURE TO RETURN TO WORK.**

Except for those employees on authorized leave or placed on a layoff register list as prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) days after approved paid or unpaid leave or release by his or her physician shall be considered as having ~~resigned~~ abandoned his or her job. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 1254. Written notification of his or her resignation shall be mailed to the last known home address. Any objections by the employee to this resignation requires the agency to pursue dismissal under Rule 190. (3-30-01)(\_\_\_\_)

### **245. -- 249. (RESERVED).**

### **250. SPECIAL LEAVES.**

**01. Leave Of Absence Without Pay.** (7-1-93)

a. Approval. ~~An employee may, at the discretion of~~ In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority, ~~be may granted an employee~~ leave without pay for a specified length of time when such leave would not have an adverse effect upon the department. The request for leave must be in writing and must establish reasonable justification for approval. (4-5-85)(\_\_\_\_)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

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c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave is the appointing authority's option without pay. (Ref. Rule 240) (7-1-87)(\_\_\_\_)

d. Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he or she shall be paid for such accruals in accordance with Sections 67-5337 and 67-5329(3), Idaho Code. (7-1-87)

#### **02. Leave Of Absence To Assume A Nonclassified Position.** (7-1-93)

a. Approval. An appointing authority may approve a leave of absence without pay may be granted from classified service to a classified employee to assume a nonclassified position in state service. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service and ninety (90) days past the service of the appointing authority. (Ref. Rule 1254.01.a.) (7-1-87)(\_\_\_\_)

b. Credited State Service. An employee ~~returning from a~~ on leave of absence ~~granted~~ to assume a nonclassified position ~~shall be allowed classified~~ continues to accrue credited state service ~~for the leave in the class from which he or she was granted the leave of absence. Credit shall not exceed time limits established above.~~ (4-5-85)(\_\_\_\_)

03. **Leave Defaults.** When an employee does not have accrued sick ~~or vacation~~ leave to cover an entire absence ~~that is attributed to sick or vacation leave, respectively,~~ the following leave types shall be used to the extent necessary to avoid leave without pay: accrued compensatory time; earned administrative leave; vacation. If abuse of sick leave is suspected see Rule 240.08. (7-1-87)(\_\_\_\_)

04. **Military Leave With Pay.** Employees who are members of the national guard or reservists in the armed forces of the United States who are directed by proper military authority to participate in ordered and authorized field training under the National Defense Act shall receive military leave with pay for a maximum fifteen (15) working days in any one (1) calendar year. Such leave is exclusive of vacation and sick leave and compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (4-5-85)

05. **Military Leave Without Pay.** An employee whose employment is reasonably expected to continue indefinitely, and who leaves his or her position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 1254.05. The employee shall either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (3-30-01)(\_\_\_\_)

06. **Administrative Leave With Pay.** At the discretion of the appointing authority, an employee may be granted administrative leave with pay when such leave is in the best interest of the department. (4-5-85)

#### **07. Earned Administrative Leave.** (7-1-93)

a. Authority for Use. In any week that an employee would be compensated an amount greater than forty (40) hours times the employee's regular rate of pay, an appointing authority may allow the employee to accumulate earned administrative leave to the extent necessary to reduce the cash compensation to forty (40) hours. An appointing authority may allow a part-time employee to accumulate earned administrative leave for the hours worked between the regularly-scheduled hours and forty (40) hours. Earned administrative leave shall be calculated based on one hundred sixty (160) hours for police, correctional officers, and fire employees pursuant to Rule 073.02. (3-30-01)

b. Ineligible Employees. Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for earned administrative leave. (Ref. Section 67-5329(l), Idaho Code). (12-10-90)

c. Payment and Credited State Service. Earned administrative leave (EAL) balances shall be paid upon transfer or separation. Hours of EAL shall accrue credited state service when worked. (3-30-01)

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**08. Court And Jury Services And Problem-Solving And Due Process Leave. (7-1-98)**

**a.** Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he or she shall not be considered absent from duty. The employee shall not be entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee shall be reimbursed by his or her respective department in accordance with ~~state department~~ travel regulations. ~~(12-10-90)( )~~

**b.** Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee shall be permitted to attend. The employee may use accrued leave or leave without pay. (3-30-01)

**c.** Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he or she shall be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee shall be entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (7-1-87)

**d.** Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by a departmental problem-solving or due process procedure or to appear as a witness or representative during such a proceeding shall be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (7-1-98)

**e.** Notification. An employee summoned for court and jury service or requested to serve as a grievance panelist, witness, or representative shall notify his or her supervisor as soon as possible to obtain authorization for leave of absence. (7-1-87)

**09. Election Leave.** When requested by an employee, an appointing authority shall grant leave with pay, without charge to vacation leave or compensatory time off for overtime, for voting in primary, general, municipal, school, or special elections in those instances where the employee's work would interfere with his or her being able to vote. (4-5-85)

**10. Religious Leave.** Appointing authorities shall make reasonable accommodations to an employee's need for leave for religious observances. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off for overtime. (4-5-85)

**11. Leave During Facility Closure Or Inaccessibility. (7-1-93)**

**a.** Authorization. When a state facility is closed or declared inaccessible because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees shall be authorized administrative leave with pay (Ref. Rule 250.06) to cover their scheduled hours of work during the closure or inaccessibility. (4-5-85)

**b.** Compensation for extra hours worked. An employee who works at a state facility during declared closure or inaccessibility shall be, in addition to regular salary, granted time off equal to the number of hours worked. If overtime is involved, it shall be compensated as provided by Section 67-5329, Idaho Code. (4-5-85)

**c.** Early release. When ~~a severe storm occurs during the day, and~~ the appointing authority or designated representative authorizes early release of employees pursuant to Rule 250.11.a., the resulting time off shall be charged to administrative leave with pay. (Ref. Rule 250.06) ~~(4-5-85)( )~~

**12. Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers shall be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (3-30-01)

**13. Employee Assistance Program Leave.** Up to two (2) hours per visit shall be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. EAP leave shall be coded as MDA. (Ref. Rule 240.04). (3-30-01)



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**(BREAK IN CONTINUITY OF SECTIONS)**

**272. POLICY MAKING AUTHORITY.**

To address the need for all classified employees to be treated equally, and in situations where the State may be considered as one (1) employer, the Division of Human Resources Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. ( )

**273. MINIMUM HUMAN RESOURCE POLICIES.**

In order to ensure consistent minimum standards for employee rights and responsibilities under federal law, Idaho Code, and executive orders, each agency is required to have policies on the following, and take steps needed to inform employees of their rights and responsibilities under those same policies. If an appointing authority does not provide employees with the agency specific policy, a model policy issued by Division of Human Resources will apply. ( )

**01. Problem Solving.** (Ref. Rule 200) ( )

**02. Due Process.** (Ref. Rule 200.01.a.) ( )

**03. Compensation.** (Ref. Rule 073.06) ( )

**04. Reasonable Accommodations/ADA.** (Ref. Rule 021) ( )

**05. Sexual Harassment And Other Illegal Discrimination.** (Ref. Rule 021) ( )

**06. Conflict Of Interest - Nepotism.** (Ref. Rule 024 and 025) ( )

**07. Drugfree Workplace.** (Ref. Rule 190.01.f.) ( )

**274. -- 999. (RESERVED).**

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 48 - DEPARTMENT OF COMMERCE

#### 48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 48-0103-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rules are effective October 3, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

- To revise the existing rules to increase the limit at which grantees can shift ITC dollars (\$2,500) between line items during a grant cycle.
- To raise the formal bid requirement for projects greater than \$2,500.
- To utilize the same electronic format as grant applications for application amendments.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Confers a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with Idaho Department of Commerce staff, the Idaho Travel Council, and industry participants of the ITC grant program at the Idaho Travel Council meeting October 2-3, Rexburg, Idaho. Discussion was generated prior to this meeting and an on-line survey conducted to revise and improve the existing rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 22, 2003.

DATED this 7th day of November, 2002.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

## 2004 - Commerce and HR House Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0103-0101

**010. DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.**

The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, and must promote the planning region as defined in the legislation. The following items are eligible projects: (10-3-01)T

**01. Advertising.** Ranked Primary. Priority will be given to advertising that is image-driven and targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce. Applicant must state in the application: (10-3-01)T

**a.** Objective and placement of advertising. (2-22-93)

**b.** Geographic target audience. (2-22-93)

**c.** Demographic target audience. (2-22-93)

**d.** Fulfillment plans. (2-22-93)

**02. Hospitality.** Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (2-22-93)

**03. Convention Promotion.** Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

**04. Site Visits/Familiarization Tours (FAMS).** Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for in-state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. Airfare for FAM participants, up to fifty percent (50%) of the total cost, and lodging at fifty percent (50%) of the state rate will be eligible with prior ITC staff approval. Grant funds cannot be used to pay for alcoholic beverages, and attractions. Familiarization tours will be allowed per diem for meals in accordance with state guidelines. Partial reimbursement, per state guidelines, will be made if participant is not being hosted on the FAM tour a complete day. FAMS must be coordinated and approved in writing by the Department of Commerce. (10-3-01)T

**05. Fulfillment.** Ranked Primary. Includes expenses directly related to implementing ITC funded plan. Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line. (Only one (1) 1-800 line per Region, and it must be centrally located and made available for use within the Region for travel and convention promotion). A distribution plan must be outlined in the application and expenses must be properly documented before reimbursement will be made. (10-3-01)T

**06. Travel And Trade Shows.** Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

**07. Slide Shows/Videos.** Ranked Tertiary. Applicant must state in the application the purpose of the slide show/video, how it will be used to promote the area, and how the slide show/video ties in with the applicant's overall marketing. (2-22-93)

**08. Marketing Research.** Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

## 2004 - Commerce and HR House Pending Rule (Yellow)

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**DEPARTMENT OF COMMERCE**  
**Regional Travel and Convention Grant Program****Docket No. 48-0103-0301**  
**Temporary and Proposed Rulemaking**

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**09. Capital Outlay.** Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars (\$150) or more per unit. No more than one (1) piece of any like equipment per Region. (7-1-98)

**a.** Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)

**b.** Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)

**c.** Use. (2-22-93)

**i.** Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)

**ii.** The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)

**iii.** The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)

**iv.** When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to the approval of the ITC. Sale proceeds are not cash match. (2-22-93)

**d.** Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and keep a copy for your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)

**i.** Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)

**ii.** The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)

**iii.** A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)

**iv.** Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)

**e.** Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)

**i.** Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)

## 2004 - Commerce and HR House Pending Rule (Yellow)

ii. Items of equipment which have not exceeded their useful life may be sold with written authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

f. Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over ~~two five~~ thousand ~~five hundred~~ dollars (\$2,500) as outlined in the Bid Process section of the administrative rules. ~~(3-19-99)~~(10-3-02)T

g. Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed below: (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

iii. Movie Projector. (2-22-93)

iv. Slide Projector. (2-22-93)

v. Computer Hardware per ITC guidelines. (10-3-01)T

vi. Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

h. Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding ~~two five~~ thousand ~~five hundred~~ dollars (\$2,500) will not be exempt from the travel grant program's bid process. ~~(3-19-99)~~(10-3-02)T

i. Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

**10. Brochure.** Ranked Primary. Includes expenses for brochure photography, design, and printing. Applicant shall state the purpose of the brochure, indicate if it is a reprint or new design, provide an estimated amount to be printed, and give a brief description of its layout and design. Additionally, applicant shall indicate its target audience, distribution plan, and include samples of the brochure, if available. For printing requirements, see Subsection 204.08. (2-22-93)

**11. Other Items.** Any other items not included above may be eligible as pre-approved by the Department of Commerce. (2-22-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **204. PLAN REQUIREMENTS.**

Applicants must follow these requirements: (2-22-93)

**01. Goals/Objectives.** The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)

**02. Adequate Management.** The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)

**03. Previous Grant Versus New Application.** The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic

## 2004 - Commerce and HR House Pending Rule (Yellow)

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**DEPARTMENT OF COMMERCE**  
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**Temporary and Proposed Rulemaking**

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grant record in terms of timeliness and effectiveness of implementation. (2-22-93)

**04. Application Completeness.** The applicant must submit applications to the Department of Commerce on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)

**05. Application Amendments/Withdraws.** Amendments to either the scope of work or the budget on grant applications will be allowed only if ~~written~~ changes are submitted ~~(one (1) original and fourteen (14) copies)~~ to the Department of Commerce ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce ten (10) working days prior to grant awards. ~~(2-22-93)~~(10-3-02)T

**06. Plan Duration.** Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)

**07. Local/Regional Support.** Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)

**08. Credit Logo And Printing Identification.** All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (1-22-02)T

**a.** A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (10-3-01)T

**i.** The approved ITC logo will be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (1-22-02)T

**b.** Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (10-3-01)T

**c.** Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (10-3-01)T

**d.** State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)

**e.** The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo will appear on either the front cover, the inside front cover, or the back cover of the brochure. (10-3-01)T

**f.** Other printed materials, web sites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of website or publication. See [www.idoc.state.id.us](http://www.idoc.state.id.us) for current downloadable graphic elements. (10-3-01)T

**i.** Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (10-3-01)T

**ii.** Radio advertisements will include the following ITC acknowledgement: "Paid Idaho Travel Council". (10-3-01)T

**iii.** Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (10-3-01)T

**iv.** Trade show booths will display the approved ITC logo in a size and location easily viewable by the

## 2004 - Commerce and HR House Pending Rule (Yellow)

public. (10-3-01)T

**g.** Fams funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (10-3-01)T

**h.** Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)

**09. Consultants.** Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)

**a.** The contract between the consultant and the grantee must be approved by the Department of Commerce and shall include language stating the contractor has sufficient Workmen's Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce has approved the contract. (2-22-93)

**b.** Consultant's billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)

**c.** The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **209. BID PROCESS.**

**01. Bids.** Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500). ~~(3-19-99)~~(10-3-02)T

**02. Documentation.** Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce which documents the following: (2-22-93)

**a.** Item or service to be purchased. (7-1-98)

**b.** Informal bids are required for projects between one thousand five hundred dollars (\$1,500) and ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500). This consists of contacting three (3) vendors. Formal bids are required for projects greater than ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500). This requires three (3) written bids from vendors. ~~(10-3-01)T~~(10-3-02)T

**c.** List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)

**d.** Justify why the successful vendor was selected. (2-22-93)

**e.** Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)

**f.** If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)

## 2004 - Commerce and HR House Pending Rule (Yellow)

(BREAK IN CONTINUITY OF SECTIONS)

**222. PLAN SELECTION.**

The Idaho Travel Council is responsible for the selection of plans to be awarded. Selection of Regional Travel and Convention Grants is as follows: (2-22-93)

**01. Committee Presentation.** At a regularly scheduled ITC meeting, applications for the Regional Travel and Convention Grant Program are presented, discussed and voted upon by the Idaho Travel Council. Grant applicants may be present to comment and answer questions. (2-22-93)

**02. Contract Preparation.** Once the Idaho Travel Council has selected plans to be funded, the Department of Commerce will notify all applicants, by letter, of their funding status. (2-22-93)

**a.** All contracts will be signed for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (2-22-93)

**b.** If applicable, special conditions of funding will be outlined. (2-22-93)

**c.** The grant will take effect upon the date of award. Grant monies cannot be obligated or expended until that date. No expenditures can be reimbursed until the contract is signed by the Director of the Department of Commerce. (2-22-93)

**d.** Extensions and amendments shall be discouraged. However, in the event of an extension or amendment, the grantee may shift, ~~with written notification~~, up to ~~two thousand five hundred (\$2,500)~~ twenty-five percent (25%) of the total ITC dollars awarded, between line items, not to exceed ten thousand dollars (\$10,000) during the entire grant cycle. The grantee must complete the appropriate amendment form, and all ITC members will vote on each amendment, for dollar amounts in excess of ~~two ten thousand five hundred (\$2,510,000)~~. From the Department of Commerce, extensions of up to ninety (90) days can be granted. ~~(4-5-00)(10-3-02)T~~

**e.** In the event a plan can be completed for less than the grant amount, the difference between actual plan costs and the grant amount shall revert to the respective regional grant funds. (2-22-93)



## **2004 - Commerce and HR House Pending Rule (Yellow)**

### **IDAPA 48 - DEPARTMENT OF COMMERCE**

#### **48.01.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 48-0103-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule.

To revise the existing rules to increase the limit at which grantees can shift ITC dollars (\$2,500) between line items during a grant cycle. To raise the formal bid requirement for projects greater than \$2,500. To utilize the same electronic format as grant applications for application amendments.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-1, pages 215 through 221.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

DATED this 3rd day of July, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

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### **IDAPA 48, TITLE 01, CHAPTER 03**

#### **RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-1, January 1, 2003, pages 215 through 221.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR House Pending Rule (Yellow)**

### **IDAPA 48 - DEPARTMENT OF COMMERCE**

#### **48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 48-0103-0302**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To change the existing, required radio advertising credit statement and replace with a message driven, Idaho Travel Council approved statement.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 232 through 234.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

DATED this 25th day of September, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720, Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

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### **IDAPA 48, TITLE 01, CHAPTER 03**

#### **RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 232 through 234.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 48 - DEPARTMENT OF COMMERCE

#### 48.01.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

##### DOCKET NO. 48-0103-0302

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is May 13, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To change the existing, required radio advertising credit statement and replace with a message driven, Idaho Travel Council approved statement.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Conferring a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with Idaho Department of Commerce staff and designated advertising agency, the Idaho Travel Council, and industry participants of the ITC grant program during industry meetings in 2002 - 2003. Discussion was generated to revise and improve the existing rules in regards to the required credit statement and finalized at the Idaho Travel Council meeting April 29, 2003 in Worley, Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 25th Day of July, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631.

## 2004 - Commerce and HR House Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0103-0101

**204. PLAN REQUIREMENTS.**

Applicants must follow these requirements: (2-22-93)

- 01. Goals/Objectives.** The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)
- 02. Adequate Management.** The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)
- 03. Previous Grant Versus New Application.** The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic grant record in terms of timeliness and effectiveness of implementation. (2-22-93)
- 04. Application Completeness.** The applicant must submit applications to the Department of Commerce on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)
- 05. Application Amendments/Withdraws.** Amendments to either the scope of work or the budget on grant applications will be allowed only if changes are submitted to the Department of Commerce ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce ten (10) working days prior to grant awards. (10-3-02)T
- 06. Plan Duration.** Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)
- 07. Local/Regional Support.** Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)
- 08. Credit Logo And Printing Identification.** All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (5-3-03)
  - a.** A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (5-3-03)
    - i.** The approved ITC logo will be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (5-3-03)
    - b.** Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (5-3-03)
  - c.** Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (5-3-03)
  - d.** State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)
  - e.** The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo

## 2004 - Commerce and HR House Pending Rule (Yellow)

will appear on either the front cover, the inside front cover, or the back cover of the brochure. (5-3-03)

f. Other printed materials, web sites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of website or publication. See [www.idoc.state.id.us](http://www.idoc.state.id.us) for current downloadable graphic elements. (5-3-03)

i. Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (5-3-03)

ii. Radio advertisements will include the following ITC acknowledgement: ~~“Paid Idaho Travel Council Visit Scenic Idaho”~~. (5-3-03)(5-13-03)T

iii. Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (5-3-03)

iv. Trade show booths will display the approved ITC logo in a size and location easily viewable by the public. (5-3-03)

g. Fams funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (5-3-03)

h. Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)

**09. Consultants.** Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)

a. The contract between the consultant and the grantee must be approved by the Department of Commerce and shall include language stating the contractor has sufficient Workmen’s Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce has approved the contract. (2-22-93)

b. Consultant’s billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)

c. The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

## **2004 - Commerce and HR House Pending Rule (Yellow)**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

#### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**DOCKET NO. 59-0103-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The 2003 legislature has enacted Senate Bill 1050, which essentially transfers administration and funding of most public safety death benefits to PERSI, and expands eligibility for such benefits to firefighters who are active members of PERSI or FRF retirement funds. The bill's fiscal note indicated an estimated increase in employer costs of one-tenth of one percent of payroll (.10%). The bill adds a new section, 59-1361A, Idaho Code, which governs the benefit. Subsection (5) requires that the costs associated with this benefit be paid as an additional contribution component by the employers of those public safety officers who are eligible for the benefit. Because this benefit is effective July 1, 2003, the Retirement Board finds that it is necessary to adopt a temporary rule to comply with the legislation and fund the required benefits. This change increases the employer rate on public safety officers by one-tenth of one percent (.10%).

The pending rule is being adopted as proposed. The original text of the temporary and proposed rule was published in the June 4, 2003 Idaho Administrative Bulletin, Volume 03-6, pages 99 and 100.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 21st day of October, 2003.

Alan H. Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th St., Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 334-3365 FAX: (208) 334-3804

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#### **IDAPA 59, TITLE 01, CHAPTER 03**

#### **CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-6, June 4, 2003, pages 99 and 100.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

#### 59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0103-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2003.

**AUTHORITY:** In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2003 legislature has enacted Senate Bill 1050, which essentially transfers administration and funding of most public safety death benefits to PERSI, and expands eligibility for such benefits to firefighters who are active members of PERSI or FRF retirement funds. The bill's fiscal note indicated an estimated increase in employer costs of one-tenth of one percent (.10%) of payroll.

The bill adds a new Section, 59-1361A, Idaho Code, which governs the benefit. Subsection 59-1361A(5), Idaho Code, requires that the costs associated with this benefit be paid as an additional contribution component by the employers of those public safety officers who are eligible for the benefit. Because this benefit is effective July 1, 2003, the Retirement Board finds that it is necessary to adopt a temporary rule to comply with the legislation and fund the required benefits. The rules are being amended to increase the employer rate on public safety officers by one-tenth of one percent (.10%).

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule change implements changes in governing law made by the 2003 legislature that are effective July 1, 2003.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 22nd day of April, 2003.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365 / FAX: 208-334-3804

## 2004 - Commerce and HR House Pending Rule (Yellow)

### **PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO Contribution Rules for PERSI**

**Docket No. 59-0103-0301  
Temporary and Proposed Rule**

#### **THE FOLLOWING IS TEXT OF DOCKET NO. 59-0103-0301**

#### **027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).**

The Firefighter Retirement Fund employer rate shall be:

(10-1-94)

**01. Option I And II Firefighters.** For option I and II firefighters hired before October 1, 1980, thirty-five ~~six point ninety~~ percent (~~35-90%~~) of payroll, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>zero one</del> -one percent (10. <del>01</del> %) until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-five <del>six point ninety</del> percent ( <del>35-90%</del> )

~~(3-30-01)~~(7-1-03)T

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) twenty-seven point ~~twenty~~ thirty-five percent (27.~~23~~35%) of payroll, as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>zero one</del> -one percent (10. <del>01</del> %) until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point <del>twenty</del> <u>thirty</u> -five percent (27. <del>23</del> <u>35</u> %)

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) ~~(Amended 3-30-01)~~

~~(3-30-01)~~(7-1-03)T

#### **028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police member excluding those listed in Rule 29 of this chapter and firefighters excluding those listed in Rule 27 of this chapter shall be ten point ~~zero one~~-one percent (10.~~01~~%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) ~~(Amended 3-30-01)~~

~~(3-30-01)~~(7-1-03)T



## **2004 - Commerce and HR House Pending Rule (Yellow)**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

#### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**DOCKET NO. 59-0103-0302**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 59-1314(1) and 72-1405 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule and an explanatory statement were published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 86 through 90.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 21st day of October, 2003.

Alan H. Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th St., Boise, ID 83702  
P.O. Box 83720  
Boise, ID 83720-0078  
Phone: (208) 334-3365  
FAX: (208) 334-3804

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#### **IDAPA 59, TITLE 01, CHAPTER 03**

#### **CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 86 through 90.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR House Pending Rule (Yellow)

### IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

#### 59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0103-0302

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5222(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 59-1322(1), Idaho Code, requires the Board to establish contribution rates to properly fund benefits, with certain restrictions. The Retirement Board has determined, based on actuarial valuation of reserves and liabilities that it is necessary to increase contribution rates back to the levels that existed prior to November 1, 1997. These increases are necessary due, in part, to the poor performance of financial markets over the last three (3) years. The rate increase will be phased in equally over a three (3) year period (about one percent per year) beginning July 1, 2004, with subsequent increases on July 1, 2005 and July 1, 2006. These increases will affect both employers and employees since, by law, contributions are allocated 37.5 percent to employees and 62.5 percent to employers. Further adjustments in rates may be necessary depending on future market conditions.

Also included is a technical amendment to the title in Rule 1, and an amendment to Rule 2 to reflect the new address of PERSI's Coeur d'Alene office. A new subsection is added to Rule 27 to clarify the contribution rate applicable to certain general members (class E members) who are "paid firefighters" for purposes of excess merger costs under the Firemen's Retirement Fund but who are not considered PERSI firefighters for benefit purposes. Rule 114 is amended to clarify eligibility while the member is on a leave of absence occasioned by an approved worker's compensation claim. Rule 176 is amended to make it consistent with recent changes to Section 59-1325, Idaho Code, requiring payment of contributions within five (5) days of each pay date.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan administration.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan H. Winkle, Executive Director of PERSI, at 334-3365.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 2003.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365 / FAX: 208-334-3804

## 2004 - Commerce and HR House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-0302

**59.01.03 - PERSI CONTRIBUTION RULES ~~FOR THE PUBLIC EMPLOYEE~~  
~~RETIREMENT SYSTEM OF IDAHO (PERSI)~~**

**001. TITLE AND SCOPE (Rule 1).**

The title of this chapter is IDAPA 59.01.03, "PERSI Contribution Rules"~~Regarding Contributions.~~ ~~(1-1-94)~~( )

**002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (Rule 2).**

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office  
607 North Eighth Street  
Boise, Idaho 83702  
Phone: 208/334-3365 or 1-800-451-8228  
Fax: 208/ 334-4026

PERSI Pocatello Office  
850 E. Center, Suite D  
Pocatello, Idaho 83201  
Phone: 208/236-6225 or 1-800-762-8228  
Fax: 208/236-6159

PERSI Coeur d'Alene Office  
2005 Ironwood Parkway, Suite ~~4226~~  
Coeur d'Alene, Idaho 83814  
Phone: 208/769-1474 or 1-800-962-8228  
Fax: 208/769-1476

~~(5-6-94)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven percent (11.00%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point sixty-one percent (11.61%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References:  
(Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) ~~(Amended 3-30-01)~~  
~~(3-30-01)~~( )

**027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).**

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

**01. Option I And II Firefighters.** For option I and II firefighters hired before October 1, 1980, ~~thirty-six percent (36%) of payroll,~~ as follows:

## 2004 - Commerce and HR House Pending Rule (Yellow)

### PUBLIC EMPLOYEE RETIREMENT SYSTEM PERSI Contribution Rules

Docket No. 59-0103-0302  
Proposed Rulemaking

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>one-one</del> eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be thirty-seven point twenty-three percent (37.23%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be thirty-seven point eighty-four percent (37.84%) of payroll until next determined by the Board.

(7-1-03)F( )

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) ~~twenty-seven point thirty-five percent (27.35%) of payroll~~, as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>one-one</del> eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be twenty-eight point fifty-eight percent (28.58%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be twenty-nine point nineteen percent (29.19%) of payroll until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) ~~(Amended 7-1-03)~~ (7-1-03)F( )

**03. Class E Members.** For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. ( )

## 2004 - Commerce and HR House Pending Rule (Yellow)

### **PUBLIC EMPLOYEE RETIREMENT SYSTEM PERSI Contribution Rules**

**Docket No. 59-0103-0302  
Proposed Rulemaking**

#### **028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point ~~one-one~~ eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) ~~(7-1-03)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).**

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2005. Beginning July 1, 2005, the rate shall be six point sixty percent (6.60%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be six point ninety-seven percent (6.97%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) ~~(3-30-01)~~(\_\_\_\_)

#### **101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).**

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2005. Beginning July 1, 2005, the rate shall be eight point zero-nine percent (8.09%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be eight point fifty-three percent (8.53%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) ~~(3-30-01)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **114. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION (Rule 114).**

**01. Contributions Due And Payable.** Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker's compensation claim and the member will be entitled to a month of membership service credit for each month the member remains ~~in this circumstance~~ eligible. ~~(1-1-94)~~(\_\_\_\_)

**02. Accruing Service.** This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of: (\_\_\_\_)

**a.** The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or (\_\_\_\_)

**b.** The employee's full-time salary less the employee's worker's compensation income benefit. (\_\_\_\_)

## 2004 - Commerce and HR House Pending Rule (Yellow)

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**PUBLIC EMPLOYEE RETIREMENT SYSTEM**  
**PERSI Contribution Rules**

**Docket No. 59-0103-0302**  
**Proposed Rulemaking**

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**03. Maintaining Eligibility For Injured Workers.** The intent of this rule is to permit employers to maintain eligibility for injured workers without having to pay salary that, when added to the employee's worker's compensation income benefit, would exceed the employee's total salary prior to the injury. Eligibility Rule 122 is inapplicable to the extent it conflicts with this rule. ( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

**176. TRANSFER OF CONTRIBUTIONS TO PERSI (Rule 176).**

Employee and employer contributions shall be calculated and forwarded to PERSI by each employer for each employee that meets the statutory definition of "employee" as defined in Section 59-1302 (14), Idaho Code. All Contributions shall be remitted, together with an approved report to PERSI no later than ~~twenty~~ five (205) days after each pay date as provided in Section 59-1325(1), Idaho Code. ~~(3-30-01)~~( )

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## 2004 - Commerce and HR House Pending Rule (Yellow)

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